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AN INTERIM REPORT BY THE CATV COMMITTEE
ON
POLICY MATTERS CONCERNING CABLE
BROADCASTING RECEIVING UNDERTAKINGS
#24 MARCH, 1969.

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AN INTERIM REPORT
BY
THE CATV COMMITTEE
ON
POLICY MATTERS CONCERNING
CABLE BROADCASTING
RECEIVING UNDERTAKINGS
MARCH, 1969.



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AN INTERIM REPORT ON POLICY MATTERS CONCERNING
CABLE BROADCASTING RECEIVING UNDERTAKINGS IN CANADA - MARCH, 1969.

PART 1

CATV COMMITTEE

Members of the CATV Committee are:

Commissioner R. Therrien	-	Chairman
Mr. J. Hagborg	-	Member
Mr. G. Medzinski	-	Member
Mr. J. Patenaude	-	Member
Mr. W. R. Wilson	-	Member
Mr. M. R. Dobson	-	General Secretary

Advisors to the CATV Committee are:

Mr. F. Foster.
Mr. R. Russel, Orbafilm Limited.
Mr. L. St. Amand.

GOALS AND OBJECTIVES

The Chairman's CATV Advisory Committee on Policy undertook a study of specific questions related to cable broadcasting in Canada with a view to studying the short-term and long-term policy requirements and submitting recommendations to the Chairman and Executive Committee. The CATV Committee undertook its work within the parameters and under the terms of reference set out in the Chairman's memorandum dated February 21, 1967. The Committee has completed this task and herein submits its findings.

GENERAL VIEWS

The CATV Committee, throughout its deliberations, was careful to view the phenomena of cable broadcasting within the broader framework of total broadcasting and to maintain this perspective in formulating conclusions and recommendations. The Committee attempted to identify and measure the trends and developments having technological, social, and cultural significance for broadcasting in general and cable broadcasting in particular. The Committee's overall concern was to formulate recommendations that would serve, in the short-run application, to further an orderly development of cable undertakings within a single Canadian broadcasting system. The Committee takes the position that

Committee is clearly must continue to grow and develop within the intent of the legislative policy, set out in the Broadcasting Act, 1968, and that the Federal concern to maintain broadcasting as a viable force for Canadian identity and unity remain paramount. The Committee further recognized that policy guidelines must be broad and flexible enough to permit growth and expansion of the cable industry without undercutting or destroying the viability of conventional radio and television broadcasting. However, in situations where a choice had to be made between conflicting interests, and other things remaining equal, the Committee gave precedence to the public interest.

COMMITTEE'S APPROACH

In formulating recommendations and proposals, on specific policy questions set out in the terms of reference of the CATV study group, particular attention was given to identifying the unique characteristics of cable television and measuring its potential for providing a wider range of services to the Canadian public than what is currently given by conventional off-air broadcasting. While study and discussion of the distinctive nature of cable broadcasting has not been exhaustive, the Committee, nevertheless, took into account such technical capabilities as multi-channel provision, potential network tie-ins, cable using microwave and satellite, the added dimension inherent in the development of two-way communication and computer links, heightened service to the local and regional areas, the ability of a cable system to accommodate the nation's growing educational needs and the development of new sources of programs and programming. The Committee is reporting at a time when the direction and thrust of new technological developments is not absolutely clear. Consequently, the conclusions and recommendations in the following pages are more in line with what the Committee considers are the current realities in broadcasting in particular and communications in general. Hopefully, the recommendations reflect the Committee's positive approach to cable broadcasting, and the Committee's wish to provide a framework for orderly development of cable systems side by side, and in conjunction with, conventional broadcasting media.

PART 2

RECOMMENDATIONS AND PROPOSALS

1. Duration of Licences:

The duration of licences for DBU's, which were in existence as of March 31, 1968, should, in the initial stage, be for a period of not more than one or two years.

2. Franchise - Exclusivity: (See Policy Paper, Item 4.)

Boundaries of an area for which a cable service is proposed should meet the following criteria:

- (a) Should avoid overlapping (or overwiring) of service area.
- (b) Should take into account the unique characteristics and capabilities of a cable system or systems in terms of community service, origination of programs, multi-channel service, the carriage of educational and instructional material, and service to minority groups and specialized audiences.
- (c) Should encompass only that area for which an applicant can provide a complete wired service within the period of the duration of the licence.

3. Ownership and Control:

- (a) Foreign
- (b) Concentration
- (c) Direct or Indirect Control by Common Carriers.

A directive, PC 1968-1809, issued by Governor-in-Council and having effect on April 1, 1968, sets out the regulations prescribing the nature and extent of foreign ownership. The terms set out in this directive must be met by all new applicants.

The Committee is of the opinion that concentration of ownership of CATV systems is not in the public interest. Pending further study, the Committee believes that the ownership of cable systems should be patterned so as to achieve equilibrium and balance between different groups in major broadcasting regions across Canada.

Media ownership should, in general, be prescribed in such a way

as to limit the dominance of any one market by one interest.

The Committee is of the opinion that ownership and control of BRU's by common carriers should, with certain exceptions, be prohibited. Cable owners should have the option of a full leaseback arrangement or pole attachment contract with common carriers providing that no restrictions or limitations are imposed concerning the spectrum needed to carry on the obligation granted in the licence. The Committee believes that the partial leaseback arrangement between a common carrier and cable owners divides the ownership and is not always in the best interests of those involved.

The Committee proposes that CATV should be acknowledged under the same terms as a public utility and that legislation should be enacted to that end. The legislation would guarantee access to facilities used by public utilities.

4. Objectives for Construction for Each System to be Met by the Licencee and the Time Limits to be Set by CRTC:
(See Policy Paper, Item 5.)

The Committee recommends that applicants be required, as a condition of licence, to provide a complete wired service to all potential subscribers in the area applied for, within the period of the duration of the licence.

5. Alteration of Programs:
(See Policy Paper, Item 6.)

The Committee is of the opinion that programs should not be altered, changed, or part-substituted without permission or direction from the Commission.

6. Channels to be Carried:
(See Policy Paper, Item 1.)

The Committee recommends that licencees be required to carry the channels (or program material) having the following priorities:

Television:

- (a) Canadian television networks.
- (b) Canadian Independent Television stations.
- (c) Locally produced television programs and educational and instructional material (one or more channels).

644-1000-80
(d) Television programs from other sources.

(e) Duplication channels.

Radio:

(f) All available Canadian FM stations.

(g) Other FM stations.

(h) ~~All~~ available AM stations.

7. Local Origination of Programs:
(See Policy Paper, Item 2.)

The Committee recommends that a licensee be permitted to produce and distribute locally originated programs within the whole service area or distinctive parts of the area. The Committee proposes that all commercially produced entertainment programs, whether foreign or Canadian, should not be carried.

8. Financial Reports to The CRTC:

The provisions cited in Paragraph 9, General Conditions of Licencing, attached to memorandum dated March 10, 1969 (see Appendix 1), provide a satisfactory policy position at the present time, pending further study and review. The provision reads as follows:

"Licensees shall, each year, make a report of the revenue, profit, expenditure, and particulars of ownership of each licenced undertaking, on appropriate forms obtainable from the Dominion Bureau of Statistics, Ottawa, Ontario."

9. Carrying of Commercials and Testing of Commercials for Broadcasting Companies:
(See Policy Paper, Item 7.)

The Committee is of the opinion that, as a general rule and pending further study, the licensees should not be permitted to carry paid commercials. However, the Committee does not object to the testing of commercials provided that permission is granted by the Commission following a study on a case-by-case basis.

10. Regulation of Rates Charged by CATV Service:
(See Policy Paper, Item 8.)

The CATV Committee is of the opinion that, pending further study, the matter of rates and rate structures for cable installation and service should be dealt with in accordance

with the draft of a proposed provision set out in Paragraph 7, General Conditions of Licencing, memorandum dated March 10, 1969, which reads as follows:

"Licences are conditional upon the authorized broadcasting undertaking being carried on in accordance with the approved application. No change may be made without the approval of the Canadian Radio-Television Commission."

11. Policy on Carriage of Distant Stations - Use of Microwave:
(See Policy Paper, Items 9 and 13.)

The general policy on microwave should not impair the choice of technical equipment to be used in the distribution of programs throughout the service area. The Committee recommends that licencees be permitted to use a microwave to relay programs from single or multiple "head-ends" to one or more distribution points provided that the "head-end" is located within the service area or at a distance of no more than 15 miles from the service area boundaries.

Concerning the use of microwave for the carriage of distant stations, the Committee believes that further studies have to be made before allowing the use of microwave to provide for the carriage of programs from other sources as listed in Item 6. However, it is the opinion of the Committee that consideration should be given to providing T.V. service by conventional broadcasting means before inviting applications for a cable service via microwave. However, the Committee recommends that permission be granted to licencees to use microwave to relay programs to areas that are not being, or will not in the foreseeable future be, served by a Canadian Broadcasting Television station.

12. Prohibition of Carrying, on Another Channel, the Same Programs as the Local Station:
(See Policy Paper, Item 11.)

The Committee discussed the many difficulties inherent in the whole matter of duplication and non-duplication, whether adjacent or simultaneous. It is considered unrealistic from many points of view - technical, financial and administrative - to require prohibition of duplication in an absolute sense. Nevertheless, the Committee believes that the order of priorities, proposed in Item 6, will in many instances serve to reduce such incidence.

13. Copyright Implications:

The Committee recommends, because of legal implications and jurisdictional questions, that no policy position be formulated.

14. Educational Programs:
(See Policy Paper, Item 10.)

The Committee is in favour of a policy position which would encourage the reservation of one or more full-time channels for locally originated programs including educational and instructional programs. A minimum service might consist of time, weather, news printer, and public announcements.

15. Networks:
(See Policy Paper, Item 12.)

The Committee believes that the establishment of permanent CATV networks should be prohibited. The Committee recommends that further consideration be given to the desirability of promoting the linking of CATV systems operating in adjoining service areas in such a way as to promote locally originated programs and service to the community.

16. Exemptions:

The Committee has reviewed the proposals (see Appendix 2) in the Classes of Licencing, memorandum dated March 10, 1969, and the proposed exemptions from the licencing requirements pursuant to Section 17 (1) (e). The Committee recommends that no policy position be stated until completion of a study of the proposed classes of licences, and of the statistical data on apartment houses provided from DCT sources.

17. Karloops - Provision of Second Service by Cable System:

The Committee will review the sub-committee report before recommending a policy position. In its preliminary findings, the sub-committee states that the provision of an alternative service requires feasibility studies.

PART 3

REFERENCES

The following papers and reports were acquired by the CATV Committee during the course of its deliberations. A more exhaustive study of the material will be made in the next phase of the work, covering long-term policy questions. Copies can be made available to the Executive Committee and other reviewing officers. Contact the General Secretary, CATV Committee, Room 1315A, Berger Building, 100 Metcalfe Street at Slater.

1. Staff Papers:- (Attached)

- Appendix 1 - General Conditions of Licencing - prepared by the Secretary's Branch, March 10, 1969.
- Appendix 2 - Classes of Licences and Exemptions - prepared by the Secretary's Branch, March 10, 1969.
- Appendix 3 - Possible Approaches to the Licencing of CATV - by J. Niedzinski, March 14, 1969.
- Appendix 3A - Comments Concerning Some Aspects of CATV Licencing and Regulation Policy - by M.R. Wilson, March 18, 1969.

2. Consultant Reports:- (Separate)

- Appendix 4 - The Cable Television Industry in Canada - Orbafilm Ltd., December 3, 1968.
- Appendix 5 - The Impact of CATV on BTV in Canada and The U.S.A. - Orbafilm Ltd., January 28, 1969.

3. General Reports:

- Appendix 6 - Presentation by Bell Canada to The CRTS on The Subject of CATV - January 27, 1969.
- Appendix 7 - A Television Digest White Paper on F.C.C. Proposed Rules and Inquiry, Docket #16327, December 13, 1968.

Appendix 8 - Report on Cable Television and Cable
Telecommunications in New York City -
September 14, 1966.

4. Technical Papers:

Appendix 9 - What Can Microwave do For Telecasters -
A. R. Hillstrom and T. W. Layton,
EM/E, November, 1965.

Appendix 10 - Cable T.V. Poles - Lease or Install -
by R. B. Cooper, Jr., EM/E, March, 1966.

Appendix 11 - Appraising an Existing CATV System -
by R. B. Cooper, Jr., EM/E, November, 1965.

5. Statistics:

Appendix 12 - Dominion Bureau of Statistics, CATV,
1967 Annual Report.

CRTC Proposed CATV Policy

Broadcasting receiving undertakings (CATV) are to be considered as part of the Canadian broadcasting system and, under the Broadcasting Act, require to be licensed by the Canadian Radio-Television Commission.

The Commission acknowledges the difficulties inherent in adapting CATV systems to the Canadian broadcasting system. However, as a first step to achieve this aim and after having considered CATV matters at public hearings held at Moncton, Regina, Ottawa (2) and London the Commission has adopted the following policy:

1. In order to implement the objectives of the Broadcasting Act the channels to be carried by CATV licensees will be given the following priority:
 - (a) All available Canadian TV networks.
 - (b) All available Canadian independent T.V. stations.
 - (c) Locally produced T.V. programs, educational and instructional material.
 - (d) T.V. programs from other sources.
 - (e) Duplication channels.
 - (f) All available Canadian FM stations.
 - (g) Other FM stations.
 - (h) All available AM stations.

2. The Commission recognizes the need for community identity, and in the public interest, the Commission will encourage the origination of locally produced programs aimed to promote this need.
3. With due regard to the areas to be serviced and the services to be provided, in granting licences, the Commission will be guided by the Governor in Council's directives, the Commission's policy on concentration and control of ownership of broadcasting undertakings and the multiple ownership and control of mass communications media in any one market.

The granting of licences to common carriers will be studied in the light of these principles.

4. The Commission will grant a licence for a specific area with boundaries designed to ensure best possible service being provided to the community concerned.
5. Service will have to be made available to the approved service area within the duration of the licence as determined by the Commission.
6. There shall be no alteration of programs unless specified or approved by the Commission or unless required to comply with Canadian Law.

7. In considering the matter of commercials on CATV systems it is the opinion of the Commission that at this time it would not be in the public interest to allow paid advertising.
8. The Commission is concerned with the rate structure as presently applied in the CATV industry and considers this question as a matter of public interest. As a matter of public concern these rates should be related to the service provided including the efforts made by the licensee to provide the subscribers with a service established in accordance with the priorities for the carriage of channels.

At this time the Commission does not propose to set or prescribe subscription rates. However, the rates for CATV service are part of an application and one of the basic considerations by the Commission for granting a licence. Therefore, the rates for CATV service should not be changed without the authority of the Commission.

9. The general policy on the use of microwave should not impair the choice of technical equipment to be used in the distribution of programs throughout the service area. In this regard it is the opinion of the Commission that permission should be granted to licensees to use microwave equipment to relay programs from single or multiple headends

to one or more distribution points within the service area provided that the headend is located within the service area or at a distance of up to 15 miles from the service area boundary.

Concerning the use of microwave for the carriage of programs from distant broadcasting stations, the Commission believes that further studies have to be made before allowing the use of microwave to provide for the reception and distribution of T.V. programs from other sources as outlined in priorities for the carriage of channels.

The Commission may, however, allow the use of microwave to relay programs to areas that are not being, or will not in the foreseeable future be, served by any Canadian television broadcasting station.

10. As a matter of public interest the Commission will encourage the carriage of ETV programs by CATV licensees and feels that facilities should be made available for this purpose.
11. The Commission believes that the carrying, on another channel, the same programs as the local station should be avoided in order to respect the priorities established for the carriage of channels.
12. The Commission will preclude the establishment, by CATV licensees, of permanent networks. However, consideration

will be given to the linking of specific channels of cablevision systems operating in adjacent service areas comprised as a whole in order to provide access to locally produced programs designed to promote community identity.

13. Where public interest warrants it the Commission will not oppose the use of multiple headends for a licensed system serving a specific area or the use of one headend to serve several service areas.

The use of one headend to provide signals to more than one licensed broadcasting receiving undertaking will be given consideration by the Commission provided that all licensees are guaranteed access to the headend.

APPENDIX 1

GENERAL CONDITIONS OF LICENCING -

PREPARED BY THE SECRETARY'S BRANCH,

MARCH 10, 1969.

Mr. R. Therrien

cc: Mr. P. Juneau ✓

F. K. Foster

March 10, 1969.

Draft - CATV Licence and accompanying letter -
General Conditions of Licensing.

This has reference to Mr. Juneau's memorandum of February 21, 1969 dealing with the 16 elements of CATV policies which have been discussed up to this point.

In this respect the Application and Licensing Bureau of this Branch has drafted, for your consideration and that of the CATV committee, the attached document which encompasses a number of those 16 elements:

(1) General Conditions of Licensing.

The Bureau has also prepared the attached:

- a) Draft CATV licence;
- b) Draft Appendix 1;
- c) Draft letter which would accompany a new licence.

The stations authorized to be received and distributed would be shown on Appendix 1 together with any specific licensing conditions applicable to the CATV system licensed.

The "General Conditions of Licensing" would be attached to each licence as an appendix 2. These general conditions would also be used to provide information to prospective applicants.

Joe Patenaude, our representative on the committee, has a copy of each document.

JCF:km

F. K. Foster,
Secretary



CANADIAN RADIO-TELEVISION COMMISSION

CONSEIL DE LA RADIO-TÉLÉVISION CANADIENNE

GENERAL CONDITIONS OF LICENSING

Licences are conditional upon the licensee being responsible for the undertaking licensed and upon the ownership of the undertaking licensed not being transferred without the permission of the Canadian Radio-Television Commission.

If the licensee is incorporated as a private company the licence is conditional upon the ownership or control of any class of share of the capital stock of the company not being transferred either directly or indirectly without the permission of the Canadian Radio-Television Commission having been first obtained, and upon the control of the undertaking licensed not being transferred in any manner whatsoever without the permission of the Canadian Radio-Television Commission having been first obtained.

If the licensee is a company other than a company incorporated as a private company, the licence is conditional upon no holder of any class of share increasing his holdings of any class of share by 10% or more and upon the control of the broadcasting undertaking licensed not being transferred in any manner whatsoever, and upon no person being appointed a Director, without the permission of the Canadian Radio-Television Commission having been first obtained. For this purpose, any ownership, control or exercise of voting rights of 15% or more of the shares of capital stock is considered as control of the licensee company.

Licences are conditional upon the licensed undertaking being operated by the licensee in person or by bona fide employees of the licensee; provided, however, that this condition may be omitted or rescinded by the Canadian Radio-Television Commission. For the purpose of this condition, bona fide employees exclude persons having contractual agreements for the management or programming of the licensed broadcasting undertaking.

Licences are conditional upon management or programming contracts proposed to be entered into by a licensee for the management or programming of a licensed broadcasting undertaking being submitted to and approved by the Canadian Radio-Television Commission.

Licences shall not be transferred or assigned; but the Commission may amend a licence to show a change in the name of the licensee company, if there is no change in control of the company.

Licences are conditional upon the authorized broadcasting undertaking being carried on in accordance with the approved application. No change may be made without the approval of the Canadian Radio-Television Commission.

Amendments or modifications to licences, when endorsed by the Canadian Radio-Television Commission shall have full force and effect.

Licensees shall, each year, make a report of the revenue, profit, expenditure, and particulars of ownership of each licensed undertaking, on appropriate forms obtainable from the Dominion Bureau of Statistics, Ottawa, Ontario.

Broadcasting receiving undertaking licences are conditional upon distribution channels not being used for distribution of programs except with the permission of the Canadian Radio-Television Commission. Distribution of locally originated programs may be authorized. Locally originated programs mean programs produced within the service area and Canadian-produced films.

Broadcasting receiving undertaking licences are conditional upon no locally originated commercials being distributed. The Canadian Radio-Television Commission may, upon application, grant permission for the testing only of commercials on a case-by-case basis.

Broadcasting receiving undertaking licences are conditional upon the information received from each broadcasting station being distributed without alteration except by permission of the Canadian Radio-Television Commission.

With respect to broadcasting receiving undertakings, a licensee is required to carry all available Canadian television channels. If it is proposed to carry FM stations, all available Canadian FM stations shall be carried and if it is proposed to carry AM stations, all available Canadian AM stations shall be carried.

CANADA

Licence Number
Numéro de licence

CANADIAN RADIO-TELEVISION COMMISSION

CONSEIL DE LA RADIO-TELEVISION CANADIENNE

LICENCE TO CARRY ON A
BROADCASTING RECEIVING UNDERTAKING

Issued in accordance with the
provisions of the Broadcasting Act, and the
regulations made thereunder

Is hereby authorized to carry on a Broad-
casting Receiving Undertaking at
to provide service to

This licence shall remain in force
from the date hereof until
on payment of the prescribed annual
fee and subject to observance of the
provisions of the Broadcasting Act and
regulations heretofore or hereafter made
by the authority thereof and the conditions
prescribed herein.

This licence, authorizing the recep-
tion of signals from specified broadcasting
stations does not confer a monopoly of the
use of these channels and this licence shall
not be construed as conferring any right for
exclusive reception or for protection against
interference from other broadcasting stations
unless the Commission may authorize from time to
time.

The Broadcasting Receiving Undertaking
shall be operated so as to comply in all
respects with the associated technical con-
struction and operating certificate issued by
the Minister of Transport, with reception of
broadcasting stations as shown on the attached
Schedule I.

This licence is issued subject to any
special conditions specified in the attached
Schedule I and to the "General Conditions of
Licensing" attached as Appendix II.

LICENCE D'EXPLOITATION D'UNE
ENTREPRISE DE RECEPTION DE RADIODIFFUSION

Délivrée conformément aux dispositions
de la Loi sur la radiodiffusion et des
règlements établis en vertu de cette loi

est autorisé(e) par les présentes à exploi-
ter une entreprise de réception de radio-
diffusion à
pour desservir

La présente licence restera en vigueur
à partir de la date d'émission jusqu'à
moyennant paiement de
la redevance annuelle prescrite et sous
réserve de l'observation des dispositions de
la Loi sur la radiodiffusion et des règle-
ments déjà édictés, ou qui pourront l'être
par la suite, en vertu de cette loi, et des
conditions qui y sont prescrites.

La présente licence, qui autorise la
réception des signaux provenant de stations
de radiodiffusion spécifiées, n'accorde
aucun monopole pour l'utilisation de ces
canaux et n'est censée accorder aucun droit
de réception continue ou de protection
contre l'interférence d'autres stations de
radiodiffusion auxquelles la Commission peut,
à l'occasion, accorder des permis.

L'exploitation de l'entreprise de
réception de radiodiffusion devra être à
tous les égards conforme au certificat
technique de construction et de fonction-
nement y relatif accordé par le ministère des
Transports, et les stations de radiodiffusion
captées devront être celles qui figurent à
l'Appendice I ci-joint.

La présente licence est délivrée sous
réserve de toutes les conditions stipulées
dans l'Appendice I ci-joint et des "Con-
ditions générales d'octroi de licence" qui
figurent à l'Appendice II ci-joint.

.....
for Chairman :
pour le Président
Canadian Radio-Television Commission
Conseil de la Radio-Télévision canadienne

APPENDIX I - LICENCE NUMBER

APPENDICE I - NUMERO DE LICENCE

Received Channel
Reçue sur le
Canal

Distributed Channel
Retransmise sur le
Canal

Call Sign
Indicatif
d'appel

Location
Emplacement

DRAFT

Gentlemen:

This letter is to confirm Decision CRTC- contained in the
Commission's Announcement dated respecting your applica-
tion dated

("...the authority as indicated in

the Announcement".)

Enclosed are broadcasting receiving undertaking Licence Number
and copy thereof which authorize you to carry on a broadcasting
receiving undertaking at to provide service to

This licence is effective from the date of
gazetting in the Canada Gazette and will expire on

The distribution of programs from the stations listed on Appendix
I of the licence, to households within the authorized service area, shall
commence within 12 months from the date of this licence and such distribution
shall be made available to all persons within the authorized service area before
the expiry date of this licence, failing which this licence shall be void.
If circumstances arise which are entirely beyond your control and which make
it impossible for you to proceed with the implementation of this authoriza-
tion, formal application may be made to the Commission for a limited extension
of time. This application should be received at least thirty (30) days before
the end of the 12 month period.

This licence is subject to the Broadcasting Act and Regulations
made thereunder and your attention is drawn, in particular, to Section 23 of
the Broadcasting Act.

You are reminded that the undertaking, for which this licence is issued, must comply in all respects with the requirements of the following:

- 1) The Broadcasting Act and Regulations made thereunder;
- 2) The Technical Construction and Operating Certificate issued by the Department of Transport;
- 3) The "General Conditions of Licensing".

The copy of the licence is to be posted in the main distribution office so that it may be available for inspection upon the request of a representative of the Canadian Radio-Television Commission.

Yours truly,

Encl.

P R O J E T

Messieurs,

La présente confirme la décision CRTC- _____ comprise dans l'Avis du _____ du Conseil, relativement à votre demande du _____

(".....autorisation, telle qu'elle est formulée dans l'Avis")

Vous trouverez ci-joints l'original et une copie de la licence N° _____ vous autorisant à exploiter une entreprise de réception de radiodiffusion à _____ pour desservir _____

Cette licence entre en vigueur à partir d _____, date de sa publication dans la Gazette du Canada, et expire le _____.

La diffusion d'émissions provenant des stations indiquées à l'Appendice I de la licence, à destination de foyers à l'intérieur de la zone que vous êtes autorisés à desservir, doit commencer dans les douze mois qui suivront la date de la présente licence et cette retransmission devra être fournie à toutes les personnes comprises dans la zone que vous êtes autorisés à desservir avant la date d'expiration de la licence, faute de quoi elle sera nulle. Si, par suite de circonstances indépendantes de votre volonté, il vous est impossible de donner suite à la présente autorisation, vous pourrez présenter au Conseil une demande officielle de prolongation limitée. Il faudra faire parvenir cette demande au moins trente (30) jours avant l'expiration des douze mois prévus.

La présente licence est accordée sous réserve de la Loi-sur la radiodiffusion et du Règlement y afférent. Il vous serait utile de lire, en particulier, l'article 23 de la Loi.

Il vous est rappelé que l'entreprise titulaire de la licence doit se conformer à tous les égards aux stipulations contenues dans:

- 1) la Loi sur la radiodiffusion et le Règlement y afférent;
- 2) le certificat technique de construction et de fonctionnement délivré par le ministère des Transports;
- 3) les "Conditions générales d'octroi de licence".

La copie de la licence doit être affichée au bureau principal de distribution pour être montrée, sur demande, à tout représentant du Conseil de la radio-télévision canadienne.

P.J.

for Chairman,
pour le Président
Canadian Radio-Television Commission
Conseil de la Radio-Télévision canadienne

APPENDIX 2

CLASSES OF LICENCES AND EXEMPTIONS -

PREPARED BY THE SECRETARY'S BRANCH,

MARCH 10, 1969.

Copy for: Mr. Pierre Juneau

Re: Tharion

F.K. Foster

March 17, 1969.

Documentation of 1969

As Chairman of the SATV Committee, you may be interested
in the attached documentation which has been prepared by Mr. Foster.

JL 3/25

F.K. Foster,
Secretary.

P.K. Foster

J.L.M. Fraser

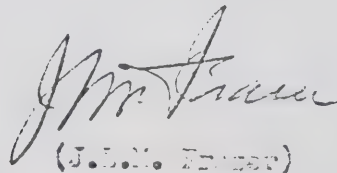
March 10, 1967.

Re: ~~Enclosure on CMV.~~

Enclosed for your information and usage are documents (Appendix I & II) which I have prepared on CMV.

Considerable time has been spent on research before arriving to these suggestions. Moreover, they have been discussed with other groups in the Secretariat.

Additional information has now been supplied on the number of CMV systems in Canada, as well as statistics on the number of apartment houses. It is proposed to review and analyse these figures in order to provide comprehensive information as to the number. From a glance at the information received, it would appear that the number of apartment houses in Canada having a number of individual households or suites exceeding 99 would be approximately 1800.


(J.L.M. Fraser)

JL:5/30

17 (1) In furtherance of the objects of the Commission, the Executive Committee, after consultation with the part-time members in attendance at a meeting of the Commission, may,

(e) exempt persons carrying on Broadcasting Receiving Undertakings of any class from the requirements that they hold broadcasting licences; and

From the foregoing section, it would seem necessary to define broadcasting receiving undertaking and classes thereof before any exemption may be considered by the Commission.

Accordingly, the following definitions are tentatively suggested:

PROPOSED DEFINITIONS

Pursuant to Section 3(d) of the Broadcasting Act, broadcasting receiving undertaking means any facility which in whole or in part receives directly or indirectly over the air broadcasting signals from one or more broadcasting stations and distributes those signals by means of wire or cable, with or without amplification or conversion from the frequency or channel received, including program material not received over the air.

COMMENTS

This definition is intended to apply to: a) all CATV systems which receive broadcasting signals from broadcasting stations, b) networks carrying broadcasting material, c) CATV's using the same receiving facilities directly or indirectly as another CATV, and d) closed circuit operations used in conjunction with the broadcasting receiving undertaking. Again, in this definition it is intended to include broadcasting receiving undertakings in whole or in part within Canada or on a ship or aircraft registered in Canada.

CLASS "A" Broadcasting Receiving Undertaking means any facility which in whole or in part receives directly or indirectly over the air broadcasting signals from one or more broadcasting stations and distributes those signals by means of wire or cable, with or without amplification or conversion from the frequency or channel received, including program material not received over the air, when the number of broadcast receiving sets making use or intended to be provided with those signals and programs exceeds fifty (50).

This class is intended to apply to all CATV systems which receive broadcasting signals on broadcasting frequencies; programs from networks and which carry closed circuit operations in conjunction with CATV operations. It is anticipated that with the several classes, the Commission would have a wider choice of licences that may be granted. This class of licences would only be granted when closed circuit operation is proposed by the operator and approved by the CRTC. This class of undertaking would, of course, be subject to CRTC licensing, ownership and licence fee requirements as in the case of broadcasting stations, when the number of TV sets connected or to be connected is more than fifty (50).

PROPOSED DEFINITIONS

Ex. CLASS "A1" Broadcasting Receiving Undertaking means any facility which in whole or in part receives directly or indirectly over the air broadcasting signals from one or more broadcasting stations and distributes those signals by means of wire or cable, with or without amplification or conversion from the frequency or channel received, including program material not received over the air, when the number of broadcast receiving sets making use or intended to be provided with those signals and programs is fifty (50) or less.

CLASS "B" Broadcasting Receiving Undertaking means any facility which receives directly over the air broadcasting signals from one or more broadcasting stations and distributes those signals by means of wire or cable, with or without amplification or conversion from the frequency or channel received, when the number of broadcast receiving sets making use or intended to be provided with those signals exceeds one hundred (100).

Ex. CLASS "B1" Broadcasting Receiving Undertaking means any facility which receives directly over the air broadcasting signals from one or more broadcasting stations and distributes those signals by means of wire or cable, with or without amplification or conversion from the frequency or channel received, when the number of broadcast receiving sets making use or intended to be provided with those signals is one hundred (100) or less.

This class is intended to apply to all CATV systems which receives broadcasting signals on broadcasting frequencies, program material from networks and which carry closed circuit operations in conjunction with CATV operations. It is proposed that this class would be exempted from the licensing requirements of the Broadcasting Act pursuant to Section 17 (1)(e). It is my understanding that in accordance with the terms of reference of Section 17 (1)(e), a definition has to be given of a class of undertaking before it may be exempted and this in turn creates the need for classes which are not exempted from licensing requirements.

This class is intended to apply to any CATV system which receives broadcasting signals on broadcasting frequencies only and does not carry closed circuit operations. This class of undertaking would be subject to CRTC licensing, ownership and licence fee requirements as in the case of broadcasting stations. It is believed to be in the interest of the Commission to have this class of undertaking because it would provide the Commission with a choice of licences if they decide that they only wish certain operators or licensees to receive and distribute broadcasting signals only for reasons that they can better appreciate as a licensing body. It is assumed that such an undertaking could hardly be looked upon as a business venture of some sort unless it provides a service to more than one hundred (100) subscribers.

This class is intended to apply to any CATV system which receives broadcasting signals on broadcasting frequencies only and makes no use of closed circuit operation. It is anticipated that this class would be exempted from licensing requirements by the Commission, pursuant to Section 17 (1)(e). The number suggested in various classes is rather theoretical and it could be changed in the light of further research or development on CATV.

CLASS "C" Broadcasting Receiving Undertaking means any facility which receives directly over the air broadcasting signals from one or more broadcasting stations and distribute those signals by means of wire or cable, with or without amplification or conversion from the frequency or channel received, to residents of single building dwellings under ownership by one person, including commercial establishments located on such premises, when such receiving and distributing facilities are confined to the premises only of such single building dwellings and when the number of broadcast receiving sets making use or intended to be provided with such broadcasting signals exceeds one hundred (100).

CLASS "C1" Broadcasting Receiving Undertaking means any facility which receives directly over the air broadcasting signals from one or more broadcasting stations and distribute those signals by means of wire or cable, with or without amplification or conversion from the frequency or channel received, to residents of single building dwellings under ownership by one person, including commercial establishments located on such premises, when such receiving and distributing facilities are confined to the premises only of such single building dwellings and when the number of broadcast receiving sets making use or intended to be provided with such broadcasting signals is one hundred (100) or less.

This class is intended to apply to CATV systems operated in single building dwellings. These systems would be strictly limited to distributing the broadcasting stations received. No closed circuit operation would be carried. It is strongly recommended that if this class is to be licensed it should be subject to special ownership and licence fee requirements because those systems would be the CATV systems not previously licensed by DOT and therefore, we do not know what to expect in the percentage of Canadian and non-Canadian ownership. Furthermore, it would not seem fair or desirable to have licence fees assessed for those CATV systems on the same basis as broadcasting stations because such CATV operations would be (are) strictly incidental to other businesses carried out. A flat fee or rate based on the number of receiving sets concerned would seem desirable. This, of course, would require an amendment to the Governor-in-Council ownership directive, and possibly an amendment to the proposed regulation respecting licence fee, to permit a lower licence fee for this class of undertaking. Consequential to the foregoing an annual report would not be required and thus it would simplify licensing requirements. ***

This class is the same as Class "C" except that it is recommended that this class be exempt from the CRTC licensing requirements pursuant to Section 17 (1)(e).

*** This approach is one among many others which could be taken to solve a problem. Another philosophy could be to allow program origination and to require ownership requirements as contained in Governor-in-Council directive (or other requirements) depending as to whether the Commission wishes or should encourage owners of apartment houses to operate CATV systems in their own apartment buildings.

Ex. CLASS "D" Broadcasting Receiving Undertaking means any facility which receives directly over the air broadcasting signals from one or more broadcasting stations and distributes those signals by means of wire or cable, with or without amplification or conversion from the frequency or channel received, to hotels, motels and similar establishments generally limited to transient occupants, when such receiving and distributing facilities are confined to the premises of only one of the buildings described above and that any program material other than that which is received over the air is limited to material of a strictly informative nature such as billboards.

Ex. CLASS "E" Broadcasting Receiving Undertaking means any facility which receives directly over the air broadcasting signals from one or more broadcasting stations and distributes those signals by means of wire or cable, with or without amplification or conversion from the frequency or channel received, to hospitals and to those establishments or institutions maintained by public funds for the benefit of the sick, aged, orphan, etc. when such receiving and distributing facilities are confined to the premises of only one of the buildings described above, including program material not received over the air.

This class is self explanatory and it is suggested that it is exempted from the CRTC licensing requirements pursuant to Section 17 (1)(e).

This class is self explanatory and it is suggested that it be exempted from the CRTC licensing requirements pursuant to Section 17 (1)(e). Closed circuit operation would be permitted.

CATV SYSTEM AS AN ENTERPRISEINTRODUCTION

The purpose of this research is to attempt to establish what size of a CATV system would normally have sufficient resources to provide an adequate service from a licensing point of view.

ESTABLISHING THE COST

Rather few figures are available to the Commission on costs because this information was not previously required by the former licensing authorities. The figures used in the following analysis are based on those shown by applicants for Broadcasting Receiving Undertakings who were previously licensed by the Department of Transport for the operation of CATV systems. A selection was made of ten CATV systems across Canada in order to represent as much as possible a true sample. An average was taken from these ten systems in establishing the cost. Major systems established in metropolitan areas were left out not to distort the picture. The ten CATV systems selected are serving from 140 to 2990 households each. Tabulations are shown in Appendix 1.

COSTS & AVERAGES

Number of CATV systems surveyed.....	10
Number of households served.....	10,454
Amount of capital investment.....	\$918,306
Cost per household served.....	\$87.80
Monthly charge per household.....	\$4.50
Installation charge.....	\$8.00
Potential households in areas served.....	26,400
Percentage of households served (saturation).....	39.5%

As mentioned before, further research is made difficult due to the lack of information, especially on operating costs. Accordingly, the analysis is based on information mentioned above, plus theoretical assumptions. The analysis is continued on the basis of the average number of households arrived at, i.e. 1045 households served.

COST OF SERVICE

1045 households at \$87.80 per se.....	\$91,751
Less non-recurring income from installation charge, i.e. 1045 at \$8.00	\$ 8,360

NET COST

Total cost less installation charge.....	\$83,391
--	----------

YEARLY REVENUE

Monthly charge X 12 X households served.....	\$56,430
--	----------

OPERATING EXPENSES (expressed in % of revenue)

Operating costs including salaries.50%.....	\$28,215
Interest on Capital.10%.....	\$ 5,643
Repayment on principal and depreciation.15%.....	\$ 8,464
Income tax. 5%.....	\$ 2,821
Profit 20%.....	\$11,286

From the foregoing, it would seem reasonable to assure that a CATV system would need to be about this size before it could be looked upon as a reasonably successful operation having a sufficient income to provide a high quality service. This, of course, does not necessarily means that all CATV systems having less than 1000 subscribers should be exempted from the CRTC licensing requirements. Obviously, this would lead to the proliferation of a great number of sub-standard installations.

It is most difficult at this time to foresee or forecast what CATV will be like in five or ten years from now. Therefore, a step by step development based on needs but readily adjustable, i.e. a series of short run policies within the framework of an overall reasonably long run policy, may well be the best course of action that may be taken at this time.

In relating the foregoing to the size of CATV systems which should be exempted from licensing requirements, a mitigated action could be taken, first in the regulatory field and secondly in policy field.

It is suggested that:

- 1) Regulations exempting CATV systems be limited to those serving 100 households or making provisions for use by 100 broadcast receiving sets. (It would seem to be difficult to justify the allocation of resources for CATV systems serving less than 100 households)
- 2) As a matter of policy, the Commission serves notice that it will not encourage the operation of CATV systems whose limited resources would lead to sub-standard installations and service, and that it does not propose under normal circumstances to licence CATV systems having a potential limited to several hundred customers, especially in metropolitan and urban areas.

APPENDIX 1

Name of Applicant & Location of CATV System.	Broadcasting Station Received					Charges Made	Households		Capital Investment
	Canadian TV	American FM	Other TV	if FM	any	Installtn. Monthly	Served	Potential	made.
Barrie Cable T.V. Limited, Barrie, Ontario. =	5	2	3	3	-	\$9.95	2990	7150	\$361,999
North Shore TV Limited, Campbellton, N.B. +	4	-	1	-	Begrnd music	\$10.00	574	3000	\$ 79,557
Videotron Ltée, Gatineau, Pointe Gatineau & Ste Rose. =	6	12	3	-	-	\$5.00	2800	6500	\$156,094
Roy Orvis (Trident Community TV) Dryden, Ontario. +	3	4	2	1	Time & Weather chnl & 8 AM Stns.	\$19.95	800	2000	\$52,372
Radio & TV Distribution Ltd. Farry Sound, Ont. +	4	6	3	5	Begrnd Music & Wthr Chnl	\$10.00	950	2000	\$52,345
Banff Community Antenna Ltd. Banff townsite, Alberta. +	3	1	-	-	AM station	nil	140	800	\$10,764
Videotron Ltée, Buckingham & Masson, Quebec. =	7	12	3	-	-	\$5.00	700	1800	\$60,207.
Videotron Ltée, Kaniwaki, Quebec. =	7	13	-	-	-	\$5.00	950	1600	\$84,884
Deep River Video Ltd. Deep River, Ont. =	4	-	1	-	Clsd CCT proposed	\$15.00	300	1200	\$40,000
Ucluelet Video Services Ltd, Ucluelet & Port Albion, B.C.+	2	3	3	1	-	\$25.00	250	350	\$20,127
TOTALS.....	45	53	19	10	5	\$80.15	10454	26400	\$918,346

Legend: Cable, amplifiers etc owned by applicant +
Cable owned by telephone or common carrier company =

APPENDIX 3

POSSIBLE APPROACHES TO THE LICENCING
OF CATV.

By J. Miedzinski, March 14, 1969.



CANADIAN RADIO-TELEVISION COMMISSION
CONSEIL DE LA RADIO-TÉLÉVISION CANADIENNE

ÉDIFICE TRANSPORTATION BUILDING
48 RIDEAU
OTTAWA 2

March 14, 1969

CATV TASK FORCE

POSSIBLE APPROACHES TO THE LICENSING OF CATV

by

J. Miedzinski

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7. Advertizing
8. Quality of Service and Technical Progress
9. Ownership
10. Licensing
11. Conclusion
12. Postscript: Program Modification and On-Demand Systems

Possible Approaches to Licensing of CATV

1. Introduction

This document contains a listing and general discussion of the various possible classes of CATV undertakings. The accent has been placed on a discussion of the possible classes not conventional by the present standards, in order to check if any of them offer a potential advantage to the public.

I regret that the pressure of work on the ETV Task Force prevented a complete treatment of the subject and an earlier distribution of this paper. It should be regarded only as an initial exposé of my thinking on the subject. The latter thinking has been much influenced by the documents already distributed to the members of this Task Force.

2. Objectives and Assumptions

- i) It is taken that the goals set out in the Broadcasting Act will be met by any system which will deliver to the individual receiving locations high quality signals carrying varying and comprehensive programs.
- ii) There is ample evidence that variety of choice is the most desired feature, several noisy channels being preferred to one clear channel.
- iii) In the locations where a choice of channels now exists, the present system provides similar programming on all or most broadcast channels, which effectively reduces the available number of distinct selections to less than the number of channels. Specialization of channel content would overcome this problem, but is hardly possible on national networks.
- iv) The smaller is a service area, the greater degree of specialization can be achieved.
- v) Public regulation is needed of all monopolistic services. CATV is a monopolistic service.
- vi) A CATV system has four aspects which need not necessarily be all controlled by a single license.
 - a) Hardware diffusion system
 - b) Assignment of channels and definition of information content
 - c) Injection of signals and control of their distribution
 - d) Financing

3. Rebroadcasting Service-Unmodified Content

The simplest type of a CATV system provides diffusion of all the signals available in its service area and no other signals. This is virtually a simple multi-channel rebroadcasting service which could, in principle, be licensed as such. The only improvement due to the system is that this signal quality is supposedly improved, including bringing of some signals above the useful minimum level. The content of any channel is not manipulated. Virtually all CATV systems in Canada today are of this type.

4. Rebroadcasting Service with Imported Signals

This is the most controversial service. Signals not available in the service area are imported by microwave, cable or a satellite link. The viewers want this, but the operators of the local stations object to competition from imported signals. The public demand is for American channels. The 40% or so of viewers who live outside the range of U.S. stations generally get poorer Canadian service as well. If no clever way to provide the needed variety of channels be designed, the protection policy will have to be abandoned in its present drastic form. The problem is to devise a method of protecting local interests without a prohibition on importation.

5. Rebroadcasting plus local origination

The greatest potential of CATV lies in local origination. The rules governing this are not at all clear. The following types of origination may occur:

- i) Imitation of broadcasting stations
- ii) Specialized programs for broad audiences
- iii) ETV
- iv) Municipal and other public affairs
- v) Minority audiences, ethnic, religious, etc.
- vi) Specialized professional audiences
- vii) Local sub-area groups
- viii) Special services; news, stock quotations, weather, etc.
- ix) Advertising

All the above except (i) are desirable within certain limits.

They can be provided simultaneously by virtue of the large amounts of channels available on modern installations.

At the normal rent, of about \$5 per month, larger systems are profitable enough to permit "free" diffusion of a number of such channels. The legal aspects of the control of such channels have not been fully investigated. The provision of selective service - either on a geographical or professional basis (switching such channels to some districts only or scrambling for reception only by viewers possessing unscramblers) is often precluded by the conditions of lease of cable from a telephone company. This type of control over a public communication system should be vested in the licensing authority alone and be declared illegal for anybody else.

Program origination like program importation, provides competition to local stations. In the long run program origination is more dangerous since it may eventually lead to closed circuit operation. A solution is needed that will permit the advantages of program origination without undue danger to the broadcasters.

6. Networking or Syndication of CCTV Operation

The locally injected programs do not have to be locally originated. Program producing houses will soon be negotiating agreements for syndicated release of their programs over large numbers of CATV systems. In the more distant future (but not far away) the now isolated CATV systems will become linked by long-haul links: cable, microwave or satellite. This will create CATV networks similar to the broadcasting networks. CATV systems could in this way economically supply programs purchased or obtained from the programming bodies, without off-the-air pick-up. The present law eliminates CRTC control when the antenna feed is switched off. The above development would therefore not only upset the public control of the electronic mass-communications, but could also seriously affect broadcasting stations which might, by then, heavily rely on CATV viewers for their ratings. The former problem can be solved by a suitable modification of the Broadcasting Act, which should definitely be considered. The economic problem will be discussed later.

There is no objective reason why cable networks should be regarded as being in any way less desirable than the open broadcast networks if they satisfy certain conditions of completeness in their coverage and provide service at a low cost. On the contrary, by virtue of charging for the service they offer the only glimmer of hope for freeing our culture from domination by the advertizing interests.

7. Advertizing

The second most important problem of CATV (after that of bringing in signals from outside the service area) is that of advertizing.

The three main aspects are:

- i) Elimination or replacement of advertizing in imported programs
- ii) Insertion of commercials in closed-circuit (i.e. locally injected) programs
- iii) Provision of special advertizing channels.

Elimination of advertizing in imported programs would protect local-station interest and could provide for insertion of local announcements. Replacement of the same advertizing matter as on the local stations would go further to compensate (or even over compensate) the latter stations for a dilution of their audiences. This action is recommended if it could be legalized. Insertion of advertizing in locally injected programs would either protect or harm the local stations, depending on who would get the revenue. In any case it would mean abandoning the one hope of providing an uninterrupted service, not influenced by the advertizing industry. It is recommended that a model be established to examine the possibility of operating CATV systems without any advertizing revenue other than that associated with a special advertizing channel. The advertizing channel could be organized in the same way in time as the classified advertisement pages of a newspaper are organized in space (in the near future, "freezing" of the required text will become possible, as well as hard-copy reception).

If advertizing be permitted, a specified fraction of the revenue should be directed to a fund supporting production of Canadian programs.

8. Quality of Service and Technical Progress

The signal quality on most CATV systems is much poorer than it should be (c.f. "Report on Cable Television Industry in Canada" by Orbafilm Ltd., December 3, 1968). This is particularly the case in small systems, owned by small-time operators without technological resources. Such systems are often short of channels, although twenty to thirty channels can now be diffused. Their greatest limitation is in ability to provide anything else then the simple CATV service. The great future of CATV lies in the possibility of using the same cable system, for a number of other communication services which would share the cost of the system, thus reducing the CATV rent or releasing more money for programming.

9. Ownership

The first problem of ownership is that the Canadian owners are mostly the independent small operators providing poor service with limited growth potential while the best service is provided by companies which are either largely foreign-owned or introduce the multiple ownership problem. There would thus be an advantage in favouring the growth of a major Canadian, purely-CATV organization.

The second main problem is the cumulation of ownership of open broadcast and CATV systems. This is generally regarded as dangerous. However, if there were only one channel available in a locality and if the broadcaster provided CATV service to some pockets of poor reception, or MATV in some apartments, no one would object. The danger lies solely in giving the local broadcaster control of all the available signal channels. It follows therefore that there is no harm in licensing the local broadcaster to diffuse his own signal or cables. If a single owner holds the license for both the CATV and open broadcast throughout an area and is held responsible for providing service to all the residents, then it is up to him to select the most economic balance between the broadcast and the CATV service.

There are of course many other problems of ownership which I expect will be covered in reports by the other members of the Task Force. Some further discussion of this subject follows in the next section.

10. Licensing

A twenty-channel CATV system is equivalent to twenty transmitters which would normally be licensed to twenty different license holders. There is no reason why such CATV channels should not be granted to several licensees. Let us classify the available channels into the following groups, depending on content:

- i) Canadian open broadcast
- ii) U.S. open broadcast
- iii) U.S. ETV or Public Broadcasting (open broadcast)
- iv) Canadian ETV (open broadcasting)
- v) Canadian ETV (closed circuit)
- vi) CATV general programming (closed circuit)

10. Licensing (Cont'd)

- vii) CATV local community channels
- viii) Special services & advertizing

Assume that a cable system operator holds only a technical and business management license, as a type of common-carrier operation. His license specifies the minimum number of channels he will make available for rent and the area of service (minimum and maximum) within his capacity he must rent channels to any broadcaster or cable-caster licenced by CRTC making injection points available to them. He makes connections to households on a per-channel basis and collects fees on behalf of the licensees. If he is not a provincial or national scale common-carrier operator, he may also be himself a licensee for injection of imported signals, but in any case a licence for such injection may be granted by CRTC to another person.

Per-channel fees are charged to the subscribers for all channels in groups (i), (ii), (iii), (vi) and possibly some in groups (vii) and (viii). A basic (minimum) subscription is set down for imported signals. Local sources may charge less. All the above licenses contribute a fraction of the basic subscription to a fund subscribing local programming and Canadian ETV services, groups (iv), (v) and part of (vii). A larger fraction of the fees for foreign imports goes into a national fund for Canadian programming. The latter fund may offer syndicated Canadian programs to Canadian broadcasters at a subsidised cost.

The local open-broadcast stations may of course feed their signals through from their studios (or microwave receivers) into the cable system and in due time might switch their transmitters off altogether. They may also be the main source of programs for the group (vi) channels.

The closed-circuit channels can provide service specialized to various degrees in the different groups. Even in the so-called "general programs" group (vi) there may be a significant difference between the channels - e.g. high-brow, low-brow and sports in the evening, children, house-wife and shift workers in the morning - unlike the present uniform diet on CTV and CBC. Much of the program material on these channels could be derived from repeats of better programs on rebroadcast channels.

The technical license holder for the cable diffusion system could be a telephone company which would have the capability of producing a high quality service and also involving use of the system for many other developing services. However, it is recommended that in such a case a method of accounting is developed which would show the complete costs and revenues of the multiple-service system, to assure that the television part would not be used to subsidize the other operations.

11. Conclusion

This preliminary report gives a quick survey of some aspects of CATV and proposes an approach to licensing which would offer the following advantages:

- i) Elimination of competition between CATV and open-broadcasting stations
- ii) Permission to import wanted U.S. signals without jeopardizing Canadian operations. Blacking out or replacement of U.S. commercials might be considered.

11. CONCLUSION (Cont'd)

- iii) Support for Canadian programming and ETV.
- iv) Vast opportunities for local programming.
- v) The Above method of licensing would be fully compatible with the forthcoming symbiosis between CATV and satellite communication systems.
- vi) Where CATV operation of this type proved highly profitable to the local broadcasters, a renewal of their license could be coupled with some conditions regarding extension of their services into the rural areas (adjacent areas for independent stations, any area for networks). In other words, profitable areas would support service in less profitable areas.
- viii) The above type of licensing would permit a smooth and gradual change over from broadcasting to cable-casting in the urban areas, without driving the broadcasters out of business.

12. POSTSCRIPT: PROGRAM MODIFICATION AND ON-DEMAND SYSTEMS

The need for providing more specialized channels has been noted. Many people claim that the only system that is truly worth-while is one that makes programs available on request of individual subscribers. These "on-demand" systems are not yet practical except on a very small scale. Furthermore, they are revolutionarily different, in system organization, to the conventional "scheduled program" systems. The extremely large number of possible program requests is one important feature that impedes the development of "on-demand" systems. However, I am convinced that the bulk of the potential demand is restricted to a very limited group of programs and that the majority of viewers would accept pre-selection being made for them, so long as they have a large enough choice in the final selection. In other words it is expected that the number of unsatisfied viewers as a function of the number of simultaneously available selections will drop to a few percent when the number of selections is around 20 programs, provided that the process of pre-selection took into account the probability distribution of the interests among the viewers, particularly as a time function affected by the topical events (e.g. screening of a program which was well talked about by most viewers).

The advent of the 30-channel cable will make 15 to 20 specialized channels available. Much of the demand could then be satisfied simply by recording programs available by off-the-air pick-up, sorting them out into specialized groups and playing back on specialized channels with several replays of the most popular programs. The more popular groups might be shown on several channels simultaneously, but with a relative time shift. Everyday, some programs would be dropped and new ones added, in accordance with a continuous survey of demand - e.g. by a well organized statistical sorting out of requests received by postcards and by telephone.

There are of course major legal problems in the way of operating such a service. The important thing however, is that the new CRTC regulations should facilitate, rather than impede the development of this service.

APPENDIX 3A

COMMENTS CONCERNING SOME ASPECTS OF
CATV LICENCING AND REGULATION POLICY.

By W. R. Wilson, March 18, 1969.

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COMMENTS CONCERNING SOME ASPECTS OF
CATV LICENSING AND REGULATION POLICY

Introduction

The report on CATV in Canada by the Technical Adviser of the Board of Broadcast Governors dated October 3, 1967, contained a brief factual review of the important features in the CATV industry in Canada and the USA. It outlined briefly the structure and growth of the industry, the main multiple owners and the common ownership with broadcasting stations, the extent of use of closed circuit originations, use of microwave, regulation, copyright, and it commented on the technology of CATV. The report was not intended to be a very detailed review, but it was designed to fulfil an urgent need in the BBG with a minimum of delay until such time as more detailed reports concerning regulation could be prepared.

This report deals with some of the important problem areas on the control of CATV, and it proposes some licensing and regulation policies for the immediate future in some high priority aspects.

As the possible future and potentiality of cable systems are important aspects in settling licensing policies and regulations which are designed to move towards long term goals, this aspect is discussed before dealing with specific proposals.

The Future of Cable Systems

-As set out in Part 1 Section 1 of the October 3, 1967 report, cable has developed an important role to play in the provision of a multi-channel television service from distant and local stations with a generally improved technical quality as compared to modest home antennas. It improves the aesthetics, and it has the potential of furnishing one or more closed circuit channels without the use of valuable spectrum space, although the use

of closed circuit is at a very prime stage in its development. Due to economic considerations, cable is at this time unsuitable for serving rural areas even with some reasonable subsidy from the city subscribers. Some studies made by the MT & T have indicated that to be economically viable, a cable system needs approximately a minimum of 90 homes per mile based on the assumption that the connected homes will be 50%, and the revenue is \$5 per connected home. This seems to be generally in line with industry practice. Unless cable has several outside signals to offer, it would be unable to reach this saturation in areas which already have two Canadian services available. This constraint regarding rural areas limits cable to urban areas including small towns.

Could microwave be used in place of cable for distribution to rural areas? Hughes are developing relatively low cost 18 GHz microwave equipment for use by Teleprompter for distribution in their N.Y.C. cable television system. This microwave system has the capability of transmitting all 12 VHF channels over relatively short distance to a cable distribution receiver. FCC have granted authority for Teleprompter to use this band on an experimental non-interfering basis only until such time as it is required for space or for other uses. Teleprompter have been forced into this route due to many obstacles in using the underground ducts in Manhattan. The cost for the use of these ducts is reported in the trade press to be \$100,000 per mile. The cost for the 18 GHz equipment has not yet been announced, but it is unlikely to be sufficiently inexpensive at this stage in production techniques to make distribution to individual rural homes an economically feasible proposition. It will meet the Teleprompter needs as the households per city block in Manhattan are so great. Heavy rain greatly attenuates the

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signals which limits the transmission path to about six miles. Longer distances are possible with larger outage times due to rain. A system on a frequency band in the vicinity of 8 GHz could be useful as a trunk line for feeding a number of sectionalized parts of the distribution system.

Most recently installed CATV systems have a 12 channel capacity but all channels can usually not be used due to technical requirements of not using those used by the local station. Systems with 18 to 20 channels are becoming available, but they require a special channel converter on the home receiver. At least one system is in use in the USA which uses two cables which give theoretical capacity of 24 channels. The plant cost, of course, is substantially increased which is reflected in higher rates.

Some rough studies which have been done, indicate that based on a 20 channel closed circuit system distribution to 100% of the homes in a number of typical medium sized cities, the distribution cost per TV channel would be lower than the distribution cost to the same homes using conventional broadcast transmitter plant. This survey used typical capital costs of existing CATV distribution systems, and it used costs of typical TV stations which, of course, cover a much larger area than the city. The studio costs were not included in each case since distribution costs only were being reviewed and they would be the same for each system. A 20 channel system has the theoretical potential of a very wide diversity of programming which theoretically could cater to specialized minority audiences. At this stage in the development of broadcasting, there is insufficient high quality syndicated and suitable minority programming to fill up a high proportion of the 20 channels on a national basis during the broadcast day. Local events and productions could be used for part of the day, but such programs due to their high cost and limited availability could fill

only a small proportion of the overall programming needs. A wide range of program types come to mind in considering what might theoretically be done if economic considerations were not setting an ironclad form into which the entire program pattern must fit. These range all the way from mass audience syndicated programs and sporting events to minority audience programs covering a wide range of subjects.

It is emphasized that the high diversity of programs which could be carried by cable is on a theoretical basis, and it does not take into account the forces of the market-place which, if the operation of each channel is on a competing basis, will tend to force the licensee to choose programs which will maximize his audience. The diversity of programming, or the lack of it, has been examined in a study done for the NAB (US) in a number of multi TV station markets, including N.Y.C. (seven stations), Los Angeles (eleven stations). The evidence from this study shows that the forces of the market-place in multi station cities makes it highly advantageous for the commercial stations to carve out a portion of the mass audience by the use of programs of this type, in place of seeking out smaller audiences by the use of very specialized programming. In other words, with the available television channels serving the large population in these cities, the audience of each channel tended to be the greatest when the stations are competing for a share of the mass audience as opposed to some stations seeking out minority audiences. The programming from the non-commercial (ETV) stations contributed most markedly to the diversity of program choice.

If allowed by the regulatory authority, some of the closed circuit cable programs of the future could be on monthly fee basis, whereas others could be on a pay-as-you-see or a charge basis per program, and others

might be supported by the advertiser. Educational programs might be supplied on a free basis as would the broadcast channels. As cable systems further develop, we may anticipate the development of a "pay-as-you-see" feature on at least one channel for use on major sporting events. The development of an economically sound pay television system is likely to be through the facilities of CATV systems where one or more channels are offered on a special charge basis, separate from the CATV charge or on an advertiser supported basis. In a reasonably free wheeling market economy uncontrolled by regulation, we could expect CATV with closed circuit programming to make inroads into broadcasting audiences and the base on which this would be built, would be the free use of broadcast channels by the CATV. We may expect in future to have the pressures develop for CATV systems importing distant channels, beyond the normal broadcasting coverage, to pay the copyright holders for carrying these channels, thus putting the cable systems carrying distant stations on a more equitable basis with broadcasters. New copyright legislation would, of course, be required for this to come about.

Networking for closed circuit systems might be expected to develop on much the same basis as for the present broadcast system.

CATV in both Canada and the USA is in a very early stage in its development in terms of overall saturation, although in some regions it is relatively high. See Appendix 1 for saturation in different regions of Canada. There were about 630,000 homes using CATV in Canada in mid 1968 which represents 12% of the TV homes according to Bob Russell's estimate. The saturation in the USA was about 4.7% as of January 1, 1968. The growth of cable in cities is on a very uneven basis as will be noted from Appendix 2. Growth has tended to be the highest in terms of saturation in the fringe coverage area or somewhat beyond the coverage to domestic antennas from US stations and in areas where the technical quality of reception is inferior.

We will be faced in Canada, as they are in the USA, with a high proportion of the cities receiving on the cable many channels from local and distant stations and, the rural areas will receive a much smaller choice of channels from their home antennas. It does not seem to be economically possible to expect cable to serve most or all of the rural areas in the foreseeable future and we must, therefore, maintain the economic health of the required minimum number of broadcasting stations to serve the rural areas, small communities and for many years to come the urban areas which are still not wired.

The growth of cable is increasing rapidly in many cities and its growth should not be retarded, provided it does not seriously impede the operation of the existing broadcast stations, especially in the origination of local programming and, provided it does not impede the establishment of second service with similar local programming obligations in existing one station markets.

There has been a certain amount of uninformed speculations in Canada and the USA that cable might be used to serve the entire country, thus freeing the television bands for other purposes. These speculations when put forward have been unsupported by any financial and technical feasibility assessments. More recently, studies done in the USA on behalf of the President's Task Force on Communications on the cost to wire the 100 million US homes expected to exist by 1980, indicate that based on existing technology it is economically unfeasible to wire the entire country. The study shows that it would cost \$123 billion to wire the entire USA according to trade press reports. It would, however, cost only \$5 billion or \$100 per home to wire half that number of homes in the more populated areas.

.. Mr. K. McKay, Vice-President of AT & T, has advised the NAB that the cost to wire 50% of US homes for 20 television channels would be about \$12 billion and he advised that to wire much above 50% "the cost would rise astronomically".

With reference to the wired-city concept, supplying over a single wide-band co-axial cable a two-way capability for telephone, television, radio, picturephone, mail, facsimile and data transmission, linking all or most American homes, the study referred to above for the President's Task Force says, "this is and will remain prohibitive in cost in the foreseeable future". Moreover, the study states that "the demand for such service is doubtful". (When the Task Force study has been released, we will try and arrange to obtain copies of the more important reports).

Dr. Hillier, Vice-President (Research) of RCA Laboratories, Princeton, N.J., a recognized authority in his field, had this to say in an article in the IEEE "...I'm tired of all those articles about the future that are constantly appearing in all sorts of publications. These are the ones where authors tell their unsuspecting readers about the electronic gadgetry that's going to fill our homes in the next decade or so - 3-D TV on the wall, the electronic shopping center, a computer console for every teenager, etc. What these fiction writers do not tell their readers is that just about everything they write about is technically feasible today. They do not explain that while the engineers and scientists are going to have a future role in bringing us these wonders of science, the real obstacles to be overcome lie in the realm of the entrepreneur, the economist or the politician. Sometimes the facts of life are that the products just cost too much for general public acceptance."

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These assessments and predictions are in line with my own general assessment of the potentialities of cable within the foreseeable future. If, of course, we project far enough into the future many developments which at this stage appear quite like science fiction will likely materialize. But such far out projections are not useful for purposes of devising a practical licensing and regulatory policy for the industry as it is today and the realistic projections which can be made on foreseeable developments which must be taken into account. The present regulation and licensing of the industry cannot be devised based on "blue sky" forecasting of what cable may sometime do for the home.

With the foregoing review as a background, the suggested goals for the regulation and licensing will now be dealt with.

Goals

Much of the long term development of cable is at this time in the realm of speculation as the technology has not yet been developed for the many uses which have been visualized for cable in serving the home of the future. Also whether this technology will result in charges which would be acceptable to the public for systems which fulfil an important public demand is also very much in the realm of speculation. We may anticipate that the uses of cable will grow greatly over the long term and its future is rosy, unfortunately, in the long term we are all dead. In the meantime, we must devise practical and flexible policies to guide the growth of cable in the short term a much more demanding and more immediately useful undertaking than speculations on the future. The maintenance of a high quality broadcasting service is essential as cable cannot at this time service sparsely populated rural areas.

The goals for cable must be set in relationship to the overall broadcasting policy. That part of the proposed overall policy which has a bearing on the development of cable is as follows:

- (1) A reasonable balance of a multi-channel service between rural and urban areas which will safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada.
- (2) To ensure the continuation of local programming on Canadian broadcasting stations and the maintenance of a high standard of service.
- (3) Not less than two Canadian broadcasting services where economically possible to all parts of Canada. Where economic conditions allow, three broadcasting services should be provided.
- (4) Improvement in the technical quality of the reception in the home.
- (5) Local programming on cable systems.
- (6) Establishment of cable systems in all areas where there is sufficient density of population to make it a feasible undertaking.
- (7) Maximum distribution of ETV programming and minority language programming.
- (8) So far as there is any flexibility for effective action by the CRTC, cable should not be allowed to impede the successful economic establishment of UHF stations in areas where UHF is required in Canada.

The Broadcasting Act in the Policy Section is not of very much assistance to us in dealing with specific knotty regulatory problems on cable. Under Section 2(b), it states that the Canadian broadcasting system should be effectively owned and controlled by Canadians so as to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada. Such generalizations are of not too much assistance to us.

The syndicated programming carried by US stations and imported into Canada by the existing cable systems are generally all available to existing and new Canadian broadcasters and we should, therefore, allow Canadian entrepreneurs the opportunity to establish additional broadcasting stations wherever market conditions allow. To delay for one reason or another the licensing of additional stations gives the existing cable systems which are established in the vast majority of the cities of Canada a great incentive to fully wire their authorized areas and it contributes to increasing the saturation in the areas already served. This will make it increasingly difficult to establish additional broadcasting stations due to the many distant signals which are imported. One feature which has contributed greatly to the greater saturation of cable in Canada as compared to the USA has been due to the fewer choices of programs available in Canada, especially before 1960, and the attractiveness of having a window on the USA through the importation of distant US signals.

Microwave Feeds for CATV Systems

A local station as used in these notes refers to one which has some local programming and the cable system is within its B contour. A distant station import is one where the cable system is beyond its B contour.

The criteria used in setting these guidelines is based on economic considerations concerning single station markets and the effect on the establishment of additional Canadian stations in one and multiple station markets due to cable. The fragmentation of the audience of a local station due to distant station imports on a cable system can have a detrimental effect on the economic ability of a local station to continue to undertake local programming and to maintain a high standard of service. In the case of marginal stations, it could also affect the viability of the local station. Besides fragmenting the audience in some cases, there is a high degree of duplication of commercial announcements between the import and the local station which has a further impact on the commercial operation of the local station. The economic impact is dealt with in more detail elsewhere in the Task Force study. Additionally, the policy is based on not impeding the establishment of second stations in single station areas where economic conditions permit and assisting in the establishment of third stations when there is sufficient revenue to support them.

It is proposed that wherever microwave is used for feeding a CATV system, the CRTC would concur in its use on a case by case basis, but the guidelines for its use would be set out in its policy. The announcement of the hearing agenda would also clearly note the proposed use of microwave.

- The policy proposed for the use of microwave is dealt with under the various classes and sub-classes as set out hereunder:

Class 1 - Intra System

(a) Head-end to distribution system - CATV system within the service area of a local station

The use of microwave of this type without a limit on the distance between the head-end and the distribution

system could promote the use of excessive distances between the head-end and the distribution system, thus allowing additional distant imports with a high technical quality. A maximum distance between the head-end and the distribution system must, therefore, be set. As distribution areas may be highly irregular in shape and there may be many different licensed areas within a metro area, a maximum distance of 15 miles from the main post office is proposed or on a special case basis from a location within the central part of the metro area as specified by the CRTC.

In a metro area like Toronto with 4 or 5 licensees, each wishing to use a separate microwave system from his head-end to import several distant signals, would require a great deal of spectrum space and raise many spectrum coordination problems. Spectrum allocations would be more efficient in that less spectrum space would be required and coordination problems would be reduced if all systems used a common head-end. We might, therefore, expect DOC to encourage those licensees who wish to use microwave to serve systems within a single area to share a common head-end and the same microwave system.

Funds saved on feeds from the head-end to the distribution system will allow larger and more sophisticated head-end antennas, thus increasing the reach of the system for distant signals. Some other means of determining what new distant channels are and are not carried on existing and

proposed CATV systems other than the distant signal reach of a system is required. This matter is dealt with later in this study.

(b) Between head-ends of CATV systems within a metro area

As there are some advantages in being able to interconnect all CATV systems within a metro area, especially for transmission of closed circuit programs, this class of use is recommended. With a common head-end, there is no interconnection problem.

(c) For feeding ETV programming to the cable system

The use of microwave for this class of use is recommended regardless of whether the origination point is within or outside the urban area containing the cable system.

Class 2 - Microwave Feeding Cable Systems Which Are Not in the Service Area of a Canadian Station

Where the cable system is supplying first Canadian service to a community, the use of microwave would be authorized. It would also be authorized for supplying second/^{Canadian} service to a community.

Class 3 - Microwave Feeding Cable Systems from Local Stations

Provided the cable distribution system is within the B contour of one or more Canadian stations, microwave for carrying the local station signals would be authorized between the head-end and the distribution system. Generally, there will be only minor use in this class except for systems in mountainous areas and for difficult to serve communities.

Class 4 - The Use of Microwave for Feeding Distant Imports into the B Contour Service Area of Another TV Station

This class includes the following sub-classes:

- (a) The distant station import has the same network program as the local station

The use of microwave for this sub-class should not be authorized.

- (b) The distant station import has a different Canadian network program from the local station

Where the CATV system is within the B contour of a local Canadian station, microwave should not be authorized to import a distant Canadian second service station. It is felt that action should be taken as soon as possible to promote the establishment of a second service station in all one station market, where the market is of such a size to support two stations on either a twin stick basis or other means.

There seems no reason why second service network repeater stations could not be established in most of the markets too small to support two independent stations, provided it was on a twin stick basis. Some of the smallest twin stick stations would probably require revenue from carrying school programming during day time hours in order to be viable. If microwave was authorized to import distant second service stations into the B contour area of a first service station, the microwave would be superfluous so far as the Canadian second service import is concerned when the second service network repeater twin stick station was

established. The pressures would immediately build up to use the microwave to import distant US stations wherever US programming was available. To allow new distant station US imports into the market at the time the network repeater station was being established might be expected to impede the establishment of a second Canadian broadcast service and microwave should, therefore, not be authorized to feed cable systems under this class.

A similar restriction would apply to the use of microwave to import a distant Canadian independent station into the principal city served by a local station as it may be expected to impede the establishment of a second service network station.

- (c) The distant station import is a minority language station with respect to the area served by the local station

Microwave under this sub-class would be authorized for feeding a cable system either within the principal city of a local station or anywhere within its B contour.

It should be noted here that if a local minority language station or an ETV station later gets established in the area of the cable system, the cable operator no longer would need the microwave for the minority language or the ETV station and we might expect him to press for authorization to carry another import - either US or Canadian channel - on the microwave. The probability of the establishment of a minority language or ETV station in the city served by the

proposed cable system would be a factor affecting the decision to approve the use of a microwave system.

(d) The distant station import is a Canadian ETV station

Microwave would be authorized for feeding a cable system anywhere within the B contour of a local station under this sub-class.

(e) Importation of US television programs by microwave

Microwave would not be authorized for feeding programs from US television stations to a Canadian cable system.

As there are ample Canadian stations now available in the border areas, it should be possible for a cable system in any unserved border area to microwave signals to his cable system if service on a direct off-air basis is not available.

CATV Systems and UHF Stations

The areas where we might expect to have the first commercial UHF stations within the next few years are: Montreal, Toronto and the Windsor-Sarnia area. Three of these areas already have operating CATV systems and systems have been authorized for the Windsor area by DOT. These systems will give an immediate access to the home receiver for a UHF station, but the price to the UHF station is high since in addition to delivering all of the local channels, many distant imports are or will be carried by the cable according to the applications. In the Windsor area, one applicant proposed to import ten outside television channels and the other applicant three outside channels. Neither of these systems could carry the Kitchener station (CTV) as the mileage is too great. In Toronto many of the cable systems carry six to seven outside television channels and in Montreal, many of the systems carry six outside

channels. Cable to the UHF station is, therefore, a very mixed blessing due to the extra fragmentation of the local audience among many more stations. It would probably not be politically possible to cut back significantly on the number of outside imports already being carried by existing cable systems in these areas which are already in operation, but in areas where cable is not now in operation and where a UHF station may be anticipated, a more restrictive licensing policy could be adopted for distant station imports where it may affect the establishment of additional Canadian stations. This matter is discussed later in this review.

Carriage Provisions

There is a need to establish priorities on the carriage provisions for cable systems to ensure that where there is insufficient channel capacity on the cable that the interests of Canadian broadcasting receive priorities over U.S. imports and local stations receive priorities over distant stations. In general, there is no great problem in this respect at this time due to the increase in capacity of the earlier systems from six channels to twelve channels, but a licensing policy in this respect would be highly desired.

The proposed provisions are that CATV systems, within the limits of their channel capacity, must carry the channels of television stations in an order of priority as set out below.

- (1) First, all Canadian television stations within whose
A contour the CATV system is operating.
- (2) Second, same as (1) but based on 8 contours.
- (3) Third, all Canadian television stations which may be
received with an acceptable quality of picture without
the use of microwave feeds.

(4) Fourth, U.S. stations.

Duplication

We may look forward to a chaotic situation developing as saturation of cable increases if there is little or no regulation on the program carriage provisions of cable systems other than the priorities as set out above. With the many distant channels being carried by cable, there is an increasing amount of duplication of programs and commercial announcements between the local stations and the distant imports. This applies to network and non-network programming. It applies to both Canadian and US imports. The effect on local stations will be on a very uneven basis and generalizations are difficult to make. When the population is small outside the principal city served by a station, the economic impact on a local station could be large as there will be less need for a national or regional advertiser to buy time on some local station if the market is sufficiently covered through cable. This aspect will be a growing problem as the saturation of cable increases to a very high level such as 75% which is anticipated in many areas.

Also from a program supplier viewpoint, the exclusivity of many markets will be destroyed due to large urban areas served by cable from a distant station. These urban islands removed from an exclusive area due to cable will cause a most chaotic marketing situation for programs and in many cases we may expect it to be harmful to the distant station. Also, it will not be contributing to an improvement in the service to the public or to the orderly development of broadcasting.

Duplication on a same day basis of the programming of CBOI and CJOH-TV Ottawa by imports on a same network basis is very large as will be seen from the study made for the Technical Branch for a survey week November 17-23, 1968. See Appendix 3. This study is based on a same day and also on a same week

duplication basis. Most of the duplication from similar network stations is on a same time slot basis and as such contributes nothing to the service offered by cable, but it does erode the audience tuned to the local stations.

An early study based on duplication by US stations in Kingston, Ottawa and Montreal is shown in the October 3, 1967 report of the Technical Adviser on CATV. Although this duplication is substantially less than between Canadian stations, there are a few high ranking programs most days which duplicate the programs of local stations on a same time slot or an adjacent time slot basis.

As the saturation of cable increases substantially, this duplication problem will become of increasing importance. The economic injury from duplication has been studied extensively in the USA and although it is difficult to be precise in specific situations on the extent of the injury, there is no doubt that it can be a significant factor on local station operation. It is for this reason the FCC have had duplication restrictions on cable operations on a same day basis since 1966.

To protect the interests of local stations against distant imports and to set guidelines which will assist in avoiding the situations developing as set out previously, it is recommended that a regulation or a licence condition prohibit CATV systems within the B contour of a local station from carrying programs from distant stations (beyond their B contour) which duplicate the programs of local stations on a same day basis, provided the local station requests to the CATV licensee this exclusivity protection as laid out in CRTC licence conditions or regulations.

The practice in US cable systems where duplication regulations apply is for some cable systems to insert a billboard on the blanked out

channel stating that the channel is blanked out in accordance with FCC regulations and advice is given on which other cable channel the program may be seen, other systems use no billboard and the channel is entirely blank.

New CATV Systems in Small Single Station Areas (Non-Microwave)

In very marginal single station areas which are candidates for
(proposed system)
second service, CATV/should not be authorized to import distant signals when the cable system is within the principal city served by the local station.

There is no reason why such systems could not be licensed to carry the local channel, but in most cases there would be little need for such a system. Where the proposed cable system is outside the principal city served by the local station, the economic impact on the local station would usually be small even with one or more distant station imports. Such new systems could be licensed.

A list of these marginal markets where the CRTC would not allow distant station imports on a proposed cable system could be issued by the CRTC in order to set up some clear guidelines for interested parties. This would seem to be the cleanest method of handling this situation.

Amendment of Licences for Additional US Channels and CRTC Licences for Existing Systems

Where an applicant applies to carry large numbers of US channels, such as 10 in the Roger System in Essex County in the Windsor area, and one Canadian channel, the audience for the Canadian channel is going to be very heavily fragmented. Several of the US channels are carrying the same network program and could be excluded from the CRTC authority. Also most of Essex County is outside the 8 contour of the three Cleveland stations being proposed by the applicant and they might also be excluded from the authority. The US channels which would be authorized in this case could be the three US

network stations and the ETV stations. In order to prevent Canadian channels on the cable from being completely swamped by large numbers of US channels, it is recommended that the addition of new US channels on existing cable systems be carefully screened based on a criteria to be established on a case by case basis when applications are made to carry additional US channels.

Brief comments on other aspects which were included in the Chairman's list of items are as set out below. These supplement those made in the discussion of March 14th.

Duration of Licence

The duration of licence as a general rule should be long enough to encourage licensees to charge rates appropriate to a stable more mature enterprise. If licensees consider their franchise is in jeopardy, there will be pressures develop to obtain the fastest possible return on the capital invested and it will be the subscribers who bear the brunt of this action. The operation of each system could be reviewed at fixed times within the licence duration on a number of specific aspects such as:

- (a) Progress made in wiring the authorized area and the growth in saturation on connected homes.
- (b) A review of closed circuit programming.
- (c) Relations with the community being served.

Most of the systems outside the larger cities could have this review done by staff to save the time and expense of public hearing.

A licence duration similar to that used for broadcasting stations could be adopted except for those systems where there are ownership or authorized area problems in particularly competitive situations.

Exclusive or Non-Exclusive Service Area

As any significant amount of over-wiring would reflect itself in higher rates for the subscriber, the only practical plan is to have one area to one licensee. This should not prevent a reassignment of authorized areas if a licensee is not making satisfactory progress in the wiring or if the service is unsatisfactory for other reasons. The licence need not use the definition of exclusive area but authorized area.

Ownership and Control

(a) Foreign

A number of foreign interests have been largely responsible for pioneering efforts in establishing or financing some of the first larger cable systems in Canada (Famous Players - CBS and Redifusion). The two former interests are now the only ones heavily committed in Canada. Although the ownership requirements have been changed since they entered the market, it is difficult to see why all systems should not now conform with the foreign ownership directive within some reasonable time period.

(b) Concentration of Ownership

Unless some clear guidelines are established soon as to the limits on the extent of ownership of cable systems and the common ownership of mass media outlets on a national basis and on a specific area basis, it will be almost impossible to roll back ownership to conform to policies based on public interest aspects. Cable systems may be expected to be heavily involved in local programming on one of the closed circuit channels, control of other broadcasting media is, therefore, an important aspect in granting a licence.

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This whole subject of cable ownership requires a more careful consideration than it appears to have received to date and it is recommended that such a study be implemented at an early date to set firm guidelines for the long term.

(c) Direct or Indirect Control by Common Carriers

The common carriers in both Canada and the USA have been notably slow in appreciating the great potential of cable during the early stages in establishing CATV. It has generally been the small or the non-common carrier entrepreneur who has pioneered cable. Bell with their great leverage in negotiating contracts with CATV companies for the erection and ownership of cable have been able to gain a great advantage for themselves in the ownership of the cable and in the restrictions on bandwidth which the cable company may use. The refusal of pole contacts on Bell poles is also very restrictive. It is felt that means should be explored through the federal regulatory agency of controlling Bell rates on partial lease backs and the terms on which cable is made available to the cable operator. The pole contact approach might also be explored.

If the Bell full lease back terms were much more favourable than CATV companies could provide the service by other means then this would be worth exploring. As their rates are apparently substantially higher, it seems no case can be made for having all transmission facilities supplied by Bell or any other telephone company with comparable rates.

This whole matter of common carrier contracts with CATV companies needs more extensive study.

Construction Schedules

The application form requires no information as to the schedule for completely wiring the entire area being applied for, the cost to carry this out, and evidence as to the availability of sufficient capital to complete it. All of this information is required with each application and the areas applied for should not be larger than could be completed within the duration of the licence.

This requirement will generally mean that a commitment of the telephone company must be filed with the application indicating that they are prepared to carry out the wiring schedule as set out in the application.

Failure to file all of the information requested by the CRTC could result in the applied for area being granted to others.

If the licensee does not substantially live up to commitments, the CRTC could for valid reasons after considering all the evidence allocate all or part of the authorized area to others.

The above will apply more particularly to the renewal of licence after the systems which were licensed by DOT have been licensed by the CRTC.

Alteration of Programs

Licensees in carrying programs would, of course, adhere to the requirements of the Broadcasting Act and Regulations, particularly as it applies to carrying of election results. These may allow for deletion of programs, but not the mutilation of programs or the substitution of different commercial announcements in programs.

Channels to be Carried

Covered previously.

Local Originations

The licensee would be authorized to program one only closed circuit channel. This program would carry no commercial messages except a billboard could be shown giving the name of the program sponsor. It would be reported in logs as for broadcasting stations.

The licensee with the permission of the CRTC could lease one other channels to a program supplier or suppliers on either a regular scheduled basis or on a special basis. No advertising would be permitted.

The licensee would be held responsible that all local originations adhering to CRTC regulations and licence conditions. There may be some problems in putting the onus on the licensee for accepting this responsibility, but in the interests of not unduly restricting an operation from experimenting in this field, it is felt this arrangement is the most feasible.

In addition to the above closed circuit channels, the cable operator could lease with the permission of the CRTC, one or more closed circuit channels to an educational institution (School Board, Department of Education, University, Trade School, etc.). In this case, the institution would be held responsible to adhere to any special regulations the CRTC may have governing the use of broadcasting stations or CATV systems for ETV.

It is considered that it would be preferable for the licensee to have the option of leasing one or more channels for ETV rather than making it mandatory for the CATV Co. to supply them free of charge. (The question of rating setting is dealt with later in these notes). Educational institutions may find it is more economical to have their own special CCTV distribution system in some cases where they have little interest in reaching the home due to the type of instructional programming being distributed. It seems preferable

for the distribution costs for educational programs to be distributed being borne out of funds allocated to education rather than being borne by cable subscribers.

Annual Financial Reports

These are required on a yearly basis on a form prescribed by the CRTC.

Carrying of Commercial and Testing of Commercials

As noted previously in these notes, revenue from the subscription charge will only cover a small amount of low cost programming for a closed circuit channel. For cable systems to carry any appreciable high quality programming which may be competitive with broadcasting will require other sources of revenue. In any area where the carrying of advertising on a closed circuit cable channel will distract from the establishment of the minimum required number of broadcasting stations it should be prohibited. In areas such as Montreal, Toronto, Hamilton, London, Ottawa, Windsor and Vancouver, advertising on one c.c. commercial channel would not seem to distract from the goals, however, it would seem there would be some merit in selecting one or two areas for full scale trials before arriving at a decision which might be applicable for other centers.

Rates

The minimum rate a cable system needs to charge to cover interest on the invested capital, depreciation, maintenance and other operating costs bears a nearly direct relationship to the saturation level for the system. A rate to pay all costs for a 25% saturation will be excessive for a 75% saturation. The formula for a financially successful operation is much better understood today than it was ten years ago. The risk factor, apart from the regulatory and copyright risk factor, is less today than previously. The computation of revenue

....

and expenses for rate setting purposes, therefore, requires some close study with a view to considering regulation of subscriber's rates based on a maximum return on invested capital. A good case can be made for rate regulation especially as systems mature. There would be little point in controlling the rate a CATV operator could charge without similar action in the control of the telephone company charge. The latter aspect is probably outside federal jurisdiction for the provincially incorporated companies whereas Bell rates could probably be controlled by CTC.

For purposes of leasing channels to program suppliers, the channel distribution costs could be prorated based on the channel capacity of the system in actual operation.

Microwave and Duplication

Covered previously.

Copyright Implications

Cable has evolved from a system to supply service to outlying poorly served areas to the present day metro area system. As saturation increases in the larger areas, we may expect pressures to grow for a revision of the copyright legislation to reflect the realities of modern electronic communications. If Canada proceeds along the route the USA seem to be taking on copyright, we may anticipate that in areas beyond the normal coverage area of a station where reception is not possible on the average home set, the revised legislation would provide for some form of licensing of copyrighted programs for use by cable systems when the cable systems are within designated areas of other stations.

In the USA, new copyright legislation proposals have been studied by several Congressional Sub-Committees for the last four to six years. Hearings

have been held to discuss submissions by NAB, NCTA, the Networks and Copyright owners. The infighting has been intense. Attempts have been made to have NAB, NCTA and the Copyright owners agree among themselves as to the copyright terms applicable to CATV for the new legislation. There is apparently some measure of agreement.

From trade reports, it is understood that the latest possible alternative clauses being considered by Senator McClellan's sub-committee for the new legislation are:

- (1) Alternative A: CATVs within certain mileage (not specified yet) of certain "leading broadcast markets" (not specified) would have full liability for distant-signal imports, would have to bargain for complete copyright clearance. In rest of markets, liability is limited to "reasonable licensee fee" - established by courts if parties don't agree. Station has full exclusivity for first and second network transmissions and first non-network transmission. There's full liability for blacked out sports and full liability in overlapping markets, such as Washington-Baltimore. Exemptions: hotels, instructional TV, common carriers, non-profit systems. Payment is through direct inter-party negotiations.
- (2) Alternative B: Two categories of major markets. First group ("leading broadcast markets") has full liability for CATVs. Second group isn't fully protected until certain number of years pass after CATV starts. For rest of markets (minor), there's compulsory licensing, with payment a percentage of CATV gross - to be distributed by U.S. Dist. Court for Dist.

of Columbia. There are no exclusivity provisions, and there's full liability for blacked out sports.

Overlapping markets are treated same as in Alternative

A. Exemptions: CATVs with potential under 500 receivers, hotels, ITV, common carriers, non-profit systems.

(3) Alternative C: Across-the-board compulsory licensing.

Payment of percentage of gross to be distributed through a "Royalty Fee Administration" of Copyright Office. There's no provision distinguishing between major and minor markets. Overlaps: same as in other alternatives. If system carries only local signals, it's exempt from payment -- unless it has considerable origination or pay TV; in latter case, it can get license for local and distant signals if it pays royalties. Systems with potential under 1,000 receivers are totally exempt, as are hotels, ITV, common carriers and non-profit systems.

The latest FCC interim regulations on cable issued on December 13, 1968 reflect a copyright type of approach. Generally, no cable system operating within a specified zone of 35 miles about the main post office in any of the top 100 markets and which proposes to import a distant station's programs beyond its B contour will do so without the permission of the distant station on each particular program imported. There is an exception to this provision for ETV stations. A similar provision applies with some variants for smaller markets. Waivers were granted to existing systems which were operating prior to December 13 which do not meet this regulation.

Carriage of distant signals outside the specified zone does not require the permission, but all signals of stations located closer to the cable

system must be carried.

In Canada, the copyright legislation is not current with the needs of the time. Cable systems may be held liable for showing of copyrighted programs in public places, but this is an ineffective control as the damages for the small amount of public viewing are generally extremely nominal.

Until such time as new legislation is enacted or until the CRTC is prepared to take appropriate action, the Football Clubs will be unable to prevent cable systems from carrying distant signals which destroy their blacked out areas unless the Clubs extend their blacked out areas to all stations which may be imported.

Educational Programs

Covered under local origination of programs.

Networks

Networking should not be allowed without the specific approval of the CRTC.

Exemption from Licence

For the present, it is recommended that MATV systems be exempt from licensing. At a later date, it is proposed to give study to the need of technical performance standards for such systems, and if this is necessary, consideration could be given to the advantages and disadvantages of licensing all but the smallest of these systems.

Sale of Systems

Although outside the terms of reference, this item deserves a few comments.

A cable system is in a very much different position than a broadcast station in the sale of a system. Broadcasters like cable companies base the

selling price on earning capacity of the enterprise. The monopoly value of the licence is an important aspect in setting the price. The public is not greatly affected if the sale price of the broadcasting station greatly exceeds the investment in the operation. The competitive aspects in the placing of advertising business and other restraints maintain to a greater or less extent a limit on the earning capacity and hence the selling price.

In cable systems, however, the public is directly affected in that a mark up far beyond what is needed for a fair return on the invested capital must be recovered from extra revenue earned from subscribers. The subscribers become something of a captive market to the cable operator after they have taken down their outside antenna. Also in areas of inferior reception, cable is a necessity.

Many cable systems are now selling for \$200 to \$275 per subscriber in the US and Canada. The reason for this is the monopoly aspect of the operator who has his cable installed and the franchise in the licence. The average capital cost of typical 12 channel systems is around \$50 investment per home to wire a city in the US, assuming all homes are connected. This is according to a study in Connecticut a few years ago. It depends, of course, on many factors such as the density of homes per mile, the cost of trunk lines and head-ends, etc. If only 50% of homes are connected, the average would be about \$100 per home. There was a considerable spread in the costs per home from about \$31 per home to \$147 per home, assuming 100% connected.

Canadian equivalent investment costs will differ due to the partial lease back. The point of this is to suggest that there is a need of preventing through appropriate subscriber rate regulation to control the rate of return on the invested capital and this will reflect itself on a control on the mark up in selling price as compared to the capital cost of the system. It

would also, of course, greatly dampen the investment of speculative capital entering the market in order to obtain a large capital gain. It would immediately place the cable industry on a basis similar to a public utility. The implications in attracting sufficient capital into the market would need exploring.

A more direct control of the selling price could also be considered which would be less tied in with a tight rate control. It would be based on the undepreciated value of the plant with adjustments made for the modernity of the equipment. Practices in public utilities regulation need exploring as to their applicability for cable.

CRTC Technical Branch
March 18, 1969

CRUDE CATV GROWTH PROJECTIONS FOR THE CANADIAN REGIONS

- (1) assuming a continuation of the present 24% annual CATV growth across the country over 5 years;
- (2) assuming a 25% growth in TV households over the entire five year period;
- (3) assuming no basic change in regulation of CATV; that is, the continued suppression of microwave;
- (4) assuming my figures from last fall's study are not too wide of the mark;

CANADIAN REGION	1968 TV HOMES	1968 CATV HOMES	1968 PERCENT SATURATION	1973 TV HOMES	1973 CATV HOMES	1973 PERCENT SATURATION
ATLANTIC	416,000	6,300	1½%	490,000	18,000	2½%
QUEBEC	1.4 mill'n	185,000	13%	1.8 mill'n	545,000	33%
ONTARIO	1.9 mill'n	242,000	13%	2.4 mill'n	720,000	33%
PRAIRIES	900,000	17,000	2%	1.1 mill'n	50,000	2½%
B.C.	540,000	179,000	33%	700,000	515,000	70%
		629,300			1348,000	

Source: Robert Russel's report,
January 28, 1969

CATV - DUPLICATION OF PROGRAMS

Attached are reports on the duplication of programs on the stations imported to Ottawa on the local CATV systems.

There are two lists, one comparing CBOT's programs with CKMG-TV, Kingston, CBMT Montreal and the American channels and the other comparing CJOH-TV programs with CFCF-TV Montreal and the American channels. The survey week was November 17-23, 1968.

Only programs which are duplicated are listed.

Log Examination Office

17-1-69

Note: About one half of the CTV network programs are supplied on a station sales time basis, i.e. the individual affiliates sell all the commercial time in the programs for their own account.

Notes (1) Different time same day
(2) Different day

968

<u>DATE</u>	<u>TIME</u>	<u>CBOT P.O. ROWS</u>	<u>CKLS</u>	<u>CBMT</u>	<u>WBYR</u>	<u>WHD</u>	<u>WPTZ</u>
<u>SUNDAY</u>							
Nov. 17	10:00-10:30	Hi Middle Day		x			
	11:00-12:00	Would you Believe		x			
	12:45-1:15	Great War		x			
	1:15-1:30	Gardening		x			
	1:30-2:00	Country Calendar	x	x			
	2:00-2:30	Football	x	x			
	4:30-4:55	Sports	x	x			
	4:55-5:00	News	x	x			
	5:00-5:30	Man Alive	x	xx			
	5:30-6:00	Hyman Sing	x	x			
	6:00-7:00	Walt Disney	x	x			
	7:00-7:30	Tommy Hunter	x	x			
	7:30-8:00	Green Acres	x	x			
	8:00-9:00	Ed Sullivan	x	x		x	
	9:00-10:00	Bonanza	x	x	x		x
	10:00-11:00	Document	x	x			
	11:00-11:14	N.W.S.	x	x			

<u>DATE</u>	<u>TIME</u>	<u>CBOT PROGRAMS</u>	<u>CHES</u>	<u>CBMT</u>	<u>WSYR</u>	<u>WHBN</u>	<u>WFSZ</u>	<u>WFTY</u>
<u>MONDAY</u>								
Nov. 18	8:45-9:10	Mr. Dressup	x	x(1)				
	9:10-9:45	MTVO	x					
	10:30-10:45	Friendly Giant	x	x				
	10:45-11:00	Chez Hélène	x	x				
	11:00-11:25	Ontario Schools	x					
	11:25-11:55	Pick of the Week		x				
	11:55-12:00	News Weather	x					
	12:30-1:00	Search for to-morrow	x	x		x		x
	1:00-1:30	Luncheon Date	x					
	1:30-2:00	As the World Turns		x		x		x
	2:00-2:30	Bonnie Prudden		x				
	3:00-3:30	Take 30	x	x				
	3:30-4:00	Edge of Night	x	x		x		x
	4:00-4:30	Weaker Sex	x	x				
	4:30-5:00	D'Iberville	x	x				
	5:00-5:30	Forest Rangers		x				
	5:30-6:00	Where it's at		x				
	6:30-6:55	News & Weather		x				
	7:30-8:00	Doris Day	x	x		x(2)		x(2)
	8:00-9:00	Music Hall	x	x				
	9:00-9:30	Front Page Challenge	x	x				
	9:30-10:30	Brigitte Bardot	x	x				
	11:00-11:30	News	x	x				
	11:30-11:25	Viewpoint		x				

<u>DATE</u>	<u>TIME</u>	<u>CROT PROGRAMS</u>	<u>CHS</u>	<u>CPT</u>	<u>WSYR</u>	<u>WMH</u>	<u>WPTZ</u>	<u>WTV</u>
<u>TUESDAY</u>								
Nov. 19	8:45-9:10	Mr. Dressup	x	x(1)				
	9:10-10:00	ETVO	x					
	10:00-10:30	CDN Schools		x				
	10:30-10:45	Friendly Giant	x	x				
	10:45-11:00	Chez Meline	x	x				
	11:25-11:55	Pick of the week		x				
	11:55-12:00	News Weather	x	x				
	12:30-1:00	Search for To-Morrow	x	x		x		x
	1:00-1:30	Luncheon Date		x				
	1:30-2:00	As the World Turns		x		x		x
	2:00-2:30	Bonnie Prudden		x				
	3:00-3:30	Take 30	x	x				
	3:30-4:00	Edge of Night	x	x		x		x
	4:00-4:30	Weaker Sex	x	x				
	4:30-5:00	Swing around	x	x				
	5:00-5:30	Frankenstein		x				
	5:30-6:00	Abbott-Costello		x				
	6:30-6:55	N.M.S		x				
	7:00-7:05	Ont. Legislation	x					
	7:30-8:00	Julia	x		x(1)		x(1)	
	8:00-9:00	Red Skelton	x	x		x(1)		x(1)
	9:00-10:00	Queenie Murgens	x	x				
	10:00-10:30	News Magazine	x	x				
	10:30-11:00	20 million questions	x	x				
	11:00-11:20	N.M.-S	x	x				
	11:20-11:25	Viewpoint	x	x				

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<u>DATE</u>	<u>TIME</u>	<u>CHOT PROGRAMS</u>	<u>CHMS</u>	<u>CBMT</u>	<u>WBYR</u>	<u>WHN</u>	<u>WPXZ</u>	<u>WJZY</u>
<u>WEDNESDAY</u>								
Nov. 20	8:45-9:10	Mr. Dressup	x	x(2)				
	9:10-10:30	ET/0	x					
	10:30-10:45	Friendly Giant	x	x				
	10:45-11:00	Ches Malone	x	x				
	11:25-11:55	Kick of the Week		x				
	11:55-12:00	News	x	x				
	12:30-1:00	Search for To-morrow	x	x		x		x
	1:00-1:30	Luncheon Date		x				
	1:30-2:00	As the World Turns		x		x		x
	2:00-2:30	Bonnie Prudden		x				
	3:00-3:30	Take 30	x	x				
	3:30-4:00	Edge of Night	x	x		x		x
	4:00-4:30	Weaker Sex	x	x				
	4:30-5:00	Place of your own	x	x				
	5:00-5:30	Huckleberry Finn		x				
	5:30-6:00	Bugs Bunny		x				
	7:30-8:00	Mother's in Law	x	x	x			
	8:00-10:45	Opera	x	x				
	10:45-11:00	Fill	x	x				
	11:00-11:20	N.-W.-S	x	x				
	11:20-11:25	Viewpoint		x				

1968

<u>DATE</u>	<u>TIME</u>	<u>CBOT PROGRAMS</u>	<u>CXBS</u>	<u>CBCT</u>	<u>MSYR</u>	<u>WHEN</u>	<u>WFTZ</u>	<u>WCTV</u>
<u>THURSDAY</u>								
Nov. 21	8:45-9:10	Mr. Dressup	x	x(2)				
	9:10-9:30	ETVO	x					
	10:00-10:30	Cdn Schools	x	x				
	10:30-10:45	Friendly Giant	x	x				
	10:45-11:00	Chez Hélène	x	x				
	11:00-11:25	ETVO	x					
	11:25-11:55	Pick of the Week		x				
	11:55-12:00	News	x	x				
	12:30-1:00	Search for To-morrow	x	x		x		x
	1:00-1:30	Luncheon Date		x				
	1:30-2:00	As the World Turns		x		x		x
	2:00-2:30	Bonnie Fadden		x				
	3:00-3:30	Take 30	x	x				
	3:30-4:00	Edge of Night	x	x		x		x
	4:00-4:30	Weaker Sex	x	x				
	4:30-5:00	Trans Canada Team	x	x				
	5:00-5:30	King Arthur		x				
	5:30-6:00	Corsairs		x				
	6:00-6:30	Ghost & Mrs. Muir	x(2)					
	6:30-6:55	N.W.-S.	x	x	x			
	7:30-8:00	Gentle Ben	x	x		x(2)		x(2)
	8:00-8:30	Telescope	x	x				
	8:30-10:00	Name of the Game	x	x	x(2)			
	10:00-10:30	Adam - 12		x				
	11:00-11:20	N.W.-S	x	x				
	11:20-11:25	Viewpoint		x				

<u>DATE</u>	<u>TIME</u>	<u>CHOT PROGRAMS</u>	<u>CK/S</u>	<u>CBMT</u>	<u>WBYR</u>	<u>WJTN</u>	<u>WPCB</u>	<u>WJNY</u>
<u>FRIDAY</u>								
Nov. 22	8:45-9:10	Mr. Dressup	x	x(1)				
	9:10-10:30	ETWO	x					
	10:30-10:45	Friendly Giant	x	x				
	10:45-11:00	Chez Hélène	x	x				
	11:25-11:55	Back of the Week		x				
	11:55-12:00	News Weather	x	x				
	12:30-1:00	Search For To-morrow	x	x		x		x
	1:00-1:30	Luncheon Date		x				
	1:30-2:00	As the World Turns		x		x		x
	2:00-2:30	Bonnie Prudden		x				
	3:00-3:30	Take 30	x	x				
	3:30-4:00	Edge of Night	x	x		x		x
	4:00-4:30	Weaker Sex	x	x				
	4:30-5:00	Toby	x	x				
	5:00-5:30	Archie		x			x(2)	x(2)
	5:30-6:00	Where it's at		x				
	6:30-6:55	N.-W.-S.		x				
	8:00-8:30	Don Messer	x	x				
	8:30-11:00	College Football	x	x				
	11:00-11:20	N.-W.-S.	x	x				
	11:20-11:25	Viewpoint		x				

<u>DATE</u>	<u>TIME</u>	<u>CHST PROGRAM</u>	<u>CHS</u>	<u>CHT</u>	<u>WBYR</u>	<u>WUW</u>	<u>WPTZ</u>	<u>WTVY</u>
<u>SATURDAY</u>								
Nov. 23	9:00-10:30	ETWO	x					
	1:00-3:00	Tennis	x					
	4:30-5:30	Water Polo	x					
	5:00-6:00	Escape From Darkness	x					
	6:00-6:30	A Place to Go		x				
	6:30-6:45	Provincial Affairs	x(2)					
	6:45-7:00	News		x				
	7:00-7:30	Sawarley Hillbillies	x	x		x(2)		x(2)
	7:30-8:00	Good Guys	x	x		x(2)		x(2)
	8:00-10:36	Hockey	x					
	10:36-11:00	Olympics	x	x				
	11:00-11:15	N.-N.-S	x					

DATE	TIME	PROGRAMS CJOH-TV	CFCF	WSYR	WMBN	WPTZ	WMBX
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SUNDAY

Nov. 17	9:00-9:30	Flintstones	x		x(2)		
	1:45-4:30	Football	x				
	5:00-5:30	Untamed World	x				
	7:00-7:30	Ugliest Girl in Town	x				
	7:30-8:30	Snooters Bros.	x		x(1)		
	8:30-9:00	Jeannie	x	x(2)		x(2)	
	9:00-10:00	M-5	x				
	11:00-11:15	M-W-S	x		x		

MONDAY

Nov. 18	8:30-9:00	Nomper Moon	x				
	10:30-11:00	Switched	x				
	2:30-3:00	Perry's Probe	x				
	3:00-3:30	People in Conflict	x				
	3:30-4:00	Doctor's Diary	x				
	7:00-7:30	Family Affair	x		x(2)		x(2)
	7:30-8:30	Rowan & Martin	x	x		x	
	8:30-9:00	Pig'n' Whistle	x				
	9:00-10:00	Ironside	x	x		x	
	10:00-11:00	It Takes a Thief	x				
	11:00-11:15	News	x				

1968

<u>DATE</u>	<u>TIME</u>	<u>PROGRAMS CION-TV</u>	<u>CFCE</u>	<u>WBYR</u>	<u>WHEN</u>	<u>WPTZ</u>	<u>WVTV</u>
<u>TUESDAY</u>							
Nov. 19	8:30-9:00	Boomer Boom	x(1)				
	10:30-11:00	Bewitched	x(1)				
	2:30-3:00	Perry's Probe	x				
	3:00-3:30	People in Conflict	x				
	3:30-4:00	Doctor's Diary	x				
	7:00-7:30	Flying Nun	x				
	7:30-8:30	Jerry Lewis	x	x		x	
	8:30-9:00	Bewitched	x				
	9:00-10:00	Phyllis Diller	x	x(2)		x(2)	
	10:00-11:00	Avengers	x				
	11:00-11:20	N - W - S	x		x		

WEDNESDAY

Nov. 20	10:30-11:00	Bewitched	x(1)				
	2:30-3:00	Perry's Probe	x				
	3:00-3:30	People in Conflict	x				
	3:30-4:00	Doctor's Diary	x				
	8:00-10:15	Hockey	x				
	12:30-12:45	News	x				

1968

<u>DATE</u>	<u>TIME</u>	<u>CJON-TV Programs</u>	<u>CFOT</u>	<u>MOYR</u>	<u>WFTN</u>	<u>WFTZ</u>	<u>WCTV</u>
<u>THURSDAY</u>							
Nov. 21	8:30-9:00	Ronper Room	x				
	10:30-11:00	Bewitched	x(1)				x(1)
	2:30-3:00	Perry's Probe	x				
	3:00-3:30	People in Conflict	x				
	3:30-4:00	Doc or's Diary	x				
	5:30-6:00	Pierre Berton	x				
	8:00-8:30	It's Happening	x				
	8:00-9:00	Dean Martin	x	x(1)		x(1)	
	9:30-10:30	Mannix	x				
	10:30-11:00	Our World	x				
	11:00-11:30	N.-W. - S.	x				

<u>FRIDAY</u>							
Nov. 22	8:30-9:00	Ronper Room	x(1)				
	10:30-11:00	Bewitched	x(1)				
	2:30-3:00	Perry's Probe	x				
	3:00-3:30	People in Conflict	x				
	3:30-4:00	Doc or's Diary	x				
	4:00-4:30	Big Spenders	x(1)				
	7:00-7:30	Country Music Hall	x				
	7:30-8:00	Here's Lucy	x		x(2)	x(2)	x(2)
	8:00-10:00	Movie	x				
	10:00-11:00	F.B.I.	x				x(2)
	11:00-11:30	N.-W. - S.	x				

<u>TE</u>	<u>TIME</u>	<u>CJON-TV PROGRAMS</u>	<u>CFCF</u>	<u>WBYR</u>	<u>WABN</u>	<u>WPTZ</u>	<u>WBDY</u>
<u>SATURDAY</u>							
v. 23	8:30-9:00	Captain Scarlet	E(1)				
	9:00-9:30	Long John Silver	x(1)				
	9:30-10:00	Flintstones	x(1)	x(2)	x(2)	x(2)	
	10:00-10:30	Uncle Bobby	x(1)				
	10:30-11:00	Spider Man	x				
	11:00-11:30	Rocky & His Friends	x				
	11:30-12:00	Batman	x			x(1)	x(1)
	5:00-6:30	World of Sports	x			x	
	7:30-8:30	Jackie Gleason	x		x		
	8:30-11:00	Movie	x				
	11:00-11:20	N.-M.-S	x		x		x
	12:52-13:51	Outcasts	x(2)				

(most of them in the provocative area of programming) are still unanswered. An examination of what happens in practice reveals how impossible it is to restrict discussion to the wording of the B.N.A. Act and to the decided cases. At present, for example, it is the decision of the provincial departments of education whether or not TV sets will form part of the teaching equipment in the school system. The provincial interest in these new techniques has also meant that large capital sums are expended in the development of ETV programming, money that is fervently welcomed by broadcasters interested in adding painlessly to their Canadian content. The result is that there is now *de facto* provincial pre-editing and censorship of the enormous numbers of TV programs meant for school use, achieved so far "without a single shot fired." It should be added, however, that although provincial administrative control in this area is bound to increase in the future, it is equally clear that many of the current provincial ambitions are destined to face federal challenge.¹⁵⁴

(b) Cablevision and the law of copyright

Most of the problems for broadcasting lawyers in a second area of confusion, the Canadian law of copyright, have been caused by the development of community antenna television (CATV) and a discussion of program controls would not be complete without a look at the effects of this phenomenon. The following words taken from the judgment of Mr. Justice Fortas in a recent landmark United States Supreme Court decision¹⁵⁵ are equally appropriate to the Canadian situation:

This case calls not for the judgment of Solomon but for the dexterity of Houdini. We are here asked to consider whether and how a technical, complex, and specific Act of Congress, the Copyright Law, which was drafted in 1909, applies to one of the recent products of scientific and promotional genius, CATV. The operations of CATV systems are based upon the use of other people's property. The issue here is whether, for this use, the owner of copyrighted material should be compensated. . . .

... [I]t is an understatement to say that the Copyright Act, including the concept of a "performance," was not created with the development of CATV in mind. The novelty of the use, incident to the novelty of the new technology, results in a baffling problem. Applying the normal jurisprudential tools — the words of the Act, legislative history, and precedent — to the facts of the case is like trying to repair a television set with a mallet.

Copyright protection in Canada is afforded by section 3 of the Copyright Act, and the cases discussing the implications of this section to concrete

¹⁵⁴The reader is particularly referred to the recent proposals regarding Radio-Quebec: see "Quebec takes second step for network," *Globe & Mail*, February 23, 1968; and "Quebec satellite educational," *Toronto Daily Star*, September 26, 1968.

¹⁵⁵*Fortnightly Corporation v. United Artists Television, Inc.*, U.S. Supreme Court, October Term, 1967, No. 618 (judgment delivered June 17, 1968). The court here decided that cablevision operators do not "perform" the works received by antenna and so do not infringe the copyright in such works, a result reached in Canada for other reasons in 1954.

broadcasting problems reveal the same frustration that Mr. Justice Fortas felt. There is no room in this paper for a detailed examination of the Canadian law,¹⁵⁶ but some of the anomalies can be described:

(1) A is the producer and copyright owner of a filmed soap-opera series, episodes of which he sells to a Toronto TV station, B, to be broadcast to the Toronto area. If B sends these programs over the air, B is liable to pay copyright royalties to A.

(2) C is a cable TV operator outside the normal listening range of TV station B, but with a large hilltop antenna he is enabled to receive B's signal and to sell it to a community of subscribers. If all of the subscribers are private homes, and C sends them the signal by cable, C does not need to pay either A or B a cent in royalties.

(3) If, however, one of C's subscribers is a hotel that keeps its TV set in the lobby or in the beer parlour, C must pay royalties to A, as must the hotel under certain circumstances.

(4) Considering situation (2) again, C is a cable TV operator who is so many miles from the listening range of TV station B that no antenna would be powerful enough to pick up B's signal. Instead, C sets up an antenna within Toronto and then constructs an elaborate cable all the way to his isolated community which is then served as before. C does not need to pay A any royalties.

(5) Same situation as (4), except that C does not lay an elaborate cable from his Toronto antenna. Instead he videotapes B's signal off the air and flies the videotapes up to the isolated community to be served by cable as before. This time C is fully liable to A for copyright royalties.

(6) Considering situation (1) again, this time the program material is not a soap-opera but instead is a live telecast of a hockey game which has been produced at great expense by A. No matter what C does, he will not be liable in royalties to A, although A will undoubtedly have come to his own arrangement with TV station B. C must be very careful with pre-filmed sections of the hockey broadcast, however, or with filmed commercial inserts (see situation (8) below).

(7) Same situation as (6), except that the hockey game is videotaped by A and run over TV station B fifteen minutes later. C still does not have to pay royalties to A if he picks up the signal and sends it out to his subscribers by cable.

(8) Same situation as (6), except that the hockey game is *filmed* by A and run over TV station B fifteen minutes later. Now C is in the same situation as if the program were a filmed soap-opera and he may be liable for royalties in certain circumstances (e.g. situation (3) or (5)). But he will still be immune if he is careful about his subscribers.

(9) If for any reason C does not pass on the signal he receives by antenna immediately, but records it (whether by film or videotape) and sends it out on cable later, then all his immunity ceases and he must pay royalties to the copyright holder, except when the programs are of the kind mentioned in situations (6) and (7).

¹⁵⁶The reader is referred to Fox, *The Canadian Law of Copyright and Industrial Designs*, 2nd ed. (Toronto, Carswell, 1967), particularly pp. 173-6, and pp. 399-408. The interesting fact is that the Canadian law in this area rests to a great degree on the authority of only two decisions: *Canadian Admiral Corporation Ltd. v. Rediffusion Inc. et al.*, [1954] Ex. C.R.382, 14 Fox Pat. C.114, 20 C.P.R.75, and *Composers, Authors and Publishers Assoc. of Canada Ltd. v. CTV Television Network Ltd. et al.*, [1966] Ex. C.R.872, (1966) 57 D.L.R. (2d) 5, (1966) 33 Fox Pat.C.69.

To extract a pattern that is both logical and equitable from this summary is to possess the "dexterity of Houdini" indeed, but the consequences to the broadcasting industry are obvious. The development of the cablevision phenomenon (which in Canada now numbers over four hundred systems) has taken place without the exercise of any control whatever by the broadcasting stations whose signals are appropriated. Since a cablevision operator who exercises care about his subscribers does not infringe copyright, the only recourse left to a broadcaster faced with diminution of his audience (and therefore his advertising revenue) because of the sudden availability of American channels on the cablevision in his area is to petition the federal regulatory authority for relief.¹⁵⁷ The responsibility for the orderly development of CATV therefore rests squarely on the shoulders of the CRTC.

II. The Limits to Administrative Action by the CRTC

In discussing the actions of a regulatory tribunal it is often useful to try to keep separate three areas that are closely interdependent. The first area is the question of legality—that is, what is the range of legally permissible actions open to the authority? An investigation of this area must consider the wording of the relevant statutes, the legislative history, and perhaps even the question of the adequacy of the statutory powers of the tribunal. While it is clear that an understanding of this first area is absolutely fundamental to a study of any tribunal, a laboured inquiry into legality unfortunately tends to obscure the heart of the matter, which is contained in the second and third areas of interest, and these must be turned to for any real insight into the Board's actions. The second area is the question of administrative feasibility, and the problems to be solved here are all practical ones—for example, how much does a program cost to produce and what talent resources are available? How much money is there to work with and what is the basis on which it is distributed among regulatees? What structural and economic problems in the industry (for example, the impact of competition from cablevision, United States stations and satellite schemes, the buying policies of national advertisers, the behaviour of the viewing audience, technical problems in broadcasting, etc.) restrict the practical ambit of administrative action? The third area is the question of political acceptability, and the issues here are self-evident—to what extent can a board go without being accused of "forcing

¹⁵⁷From an economic standpoint, American competitive programming available through cablevision is tolerable in a market large enough to accommodate and sustain alternative channels: the problem becomes severest in the forty-two markets served only by a CBC network signal, where the economics of operation are still precarious. See *infra*, p. 386. The difficulties presented by cablevision are bound to increase when, in the next few years, synchronous satellites make it possible for virtually any Canadian community to receive American programming through CATV operators.

